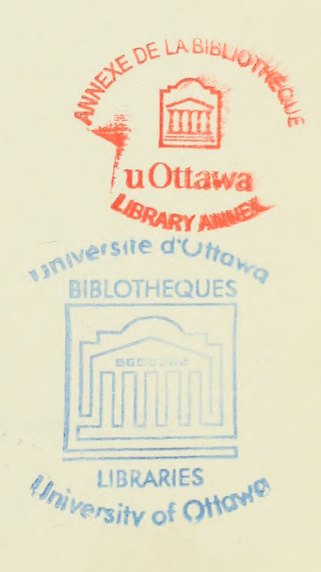

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NOUVEAU

RECUEIL GÉNÉRAL

DE

TRAITÉS

ET

AUTRES ACTES RELATIFS AUX RAPPORTS

DE DROIT INTERNATIONAL.

CONTINUATION DU GRAND RECUEIL

DE

G. FR. DE MARTENS

PAR

Heinrich Triepel

TROISIÈME SÉRIE.

TOME VI.



Unveränderter Neudruck der Ausgabe Leipzig 1912

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LEIPZIG

[illegible]

[illegible]

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Professeur de droit public à l'Université de Kiel

Associé de l'Institut de droit international.

TROISIÈME SÉRIE.

TOME VI.

PREMIÈRE LIVRAISON.



LEIPZIG

LIBRAIRIE DIETERICH

THEODOR WEICHER

1912

1.

ITALIE.

Loi soumettant la Tripolitaine et la Cyrenaïque à la souveraineté du Royaume d'Italie; du 25 février 1912.

Gazzetta ufficiale 1912. No. 47.

Vittorio Emanuele III

per grazia di Dio e per volontà della Nazione
Re d'Italia

Il Senato e la Camera dei Deputati hanno approvato;

Noi abbiamo sanzionato e promulghiamo quanto segue:

Articolo unico.

Il R. decreto 5 novembre 1911, n. 1247, col quale la Tripolitania e la Cirenaica furono poste sotto la sovranità piena ed intera del Regno d'Italia, è convertito in legge.

Ordiniamo che la presente, munita del sigillo dello Stato, sia inserta nella raccolta ufficiale delle leggi e dei decreti del Regno d'Italia, mandando a chiunque spetti di osservarla e di farla osservare come legge dello Stato.

Data a Roma, addì 25 febbraio 1912.

Vittorio Emanuele.

Giolitti — Di San Giuliano — Finocchiaro-Aprile — Facta — Tedesco — Spingardi — Leonardi-Cattolica — Credaro — Sacchi — Nitti — Calissano.

Visto, Il guardasigilli: Finocchiaro-Aprile.

(R. decreto 5 novembre 1911, n. 1247).

Vittorio Emanuele III

per grazia di Dio e per volontà della Nazione
Re d'Italia

Sulla proposta del presidente del Consiglio dei ministri e del ministro degli affari esteri;

Sentito il Consiglio dei ministri;

Visto l'art. 5 dello Statuto fondamentale del Regno;

Abbiamo decretato e decretiamo:

La Tripolitania e la Cirenaica sono poste sotto la sovranità piena ed intera del Regno d'Italia.

Una legge determinerà le norme definitive per l'amministrazione di quelle regioni. Finchè tale legge non sarà promulgata si provvederà con decreti reali.

Il presente decreto sarà presentato al Parlamento per essere convertito in legge.

Ordiniamo che il presente decreto, munito del sigillo dello Stato, sia inserto nella raccolta ufficiale delle leggi e dei decreti del Regno d'Italia, mandando a chiunque spetti di osservarlo e di farlo osservare.

Dato a Roma, addì 5 novembre 1911.

Vittorio Emanuele.

Giolitti — Di San Giuliano — Finocchiaro-Aprile — Facta — Tedesco — Spingardi — Leonardi-Cattolica — Credaro — Sacchi — Nitti — Calissano.

Visto, d'ordine di Sua Maestà:

Il presidente del Consiglio dei ministri

Giolitti.

2.

ALLEMAGNE, AUTRICHE-HONGRIE, BELGIQUE, FRANCE, GRANDE-BRETAGNE, ITALIE, LUXEMBOURG, PAYS-BAS, PÉROU, SUÈDE, SUISSE.

Protocole concernant l'accession de la Suisse à la Convention relative au régime des sucres du 5 mars 1902;*) signé à Bruxelles, le 26 juin 1906.

Eidgenössische Gesetzsammlung 1906. No. 11.

Protocole.

L'Allemagne, l'Autriche-Hongrie, la Belgique, la France, la Grande-Bretagne, l'Italie, le Grand-Duché de Luxembourg, les Pays-Bas, le Pérou et la Suède, d'une part, et

La Suisse, de l'autre part,

se sont trouvés d'accord quant à l'accession de la Suisse à la Convention relative au régime des sucres du 5 mars 1902 sous les réserves et conditions énumérées ci-après:

1. Aussi longtemps que la Suisse n'exportera pas de sucre, le Gouvernement fédéral sera affranchi des obligations qui font l'objet des articles 2 et 3 de la Convention.

2. Le Délégué du Gouvernement fédéral prendra part aux réunions de la commission permanente avec voix consultative, mais sans droit de vote.**)

Il est expressément entendu que si par la suite le droit de vote venait à être accordé au Délégué d'un nouvel Etat adhérant et non exportateur de sucre, ce droit serait immédiatement étendu au Délégué du Gouvernement fédéral.

3. L'accession de la Suisse à la Convention sortira ses effets le 1er septembre 1906.

En foi de quoi, les soussignés, représentants des Etats de l'Union sucrière, d'une part, et de la Suisse, d'autre part, ont signé le présent protocole.

Fait à Bruxelles, en un seul exemplaire, le 26 juin 1906.

Pour l'Allemagne:
(sig.) Graf *von Wallwitz.*

Pour l'Autriche-Hongrie:
(sig.) Cte *Clary* et *Aldringen,* Ministre d'Autriche-Hongrie.

Pour l'Autriche:
(sig.) *Léopold Joas,* Conseiller au Ministère des Finances.

Pour la Hongrie:
(sig.) *Teleszky Janos,* Conseiller au Ministère des Finances.

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*) V. N. R. G. 2. s. XXXI, p. 272.

**) V. ci-après No. 3.

Pour la Belgique:
(sig.) *Favereau.*

Pour la France:
(sig.) *A. Gérard.*

Pour la Grande-Bretagne:
(sig.) *Arthur H. Hardinge.*

Pour l'Italie:
(sig.) *Bonin.*

Pour le Grand-Duché de Luxembourg:
(sig.) Le Comte *d'Ansembourg.*

Pour les Pays-Bas:
(sig.) *van der Staal van Piershil.*

Pour le Pérou:
(sig.) *D. Gamio.*

Pour la Suède:
(sig.) *G. Falkenberg.*

Pour la Suisse:
(sig.) *Jules Borel.*

(Übersetzung.)

Protokoll.

Das Deutsche Reich, Österreich-Ungarn, Belgien, Frankreich, Grossbritannien, Italien, das Grossherzogtum Luxemburg, die Niederlande, Peru und Schweden, einerseits, und die Schweiz, anderseits, haben sich unter den nachstehend aufgeführten Vorbehalten und Bedingungen über den Beitritt der Schweiz zu der Konvention über die Behandlung des Zuckers vom 5. März 1902 geeinigt:

1. Solange die Schweiz keinen Zucker ausführt, wird die Bundesregierung von den Verpflichtungen, die den Gegenstand der Artikel 2 und 3 der Konvention bilden, befreit.

2. Der Delegierte der schweizerischen Regierung nimmt an den Sitzungen der ständigen Kommission mit beratender Stimme, aber ohne Stimmrecht, teil.

Es wird ausdrücklich vereinbart, dass das Stimmrecht, wenn es in der Folge dem Delegierten eines neu beitretenden, keinen Zucker ausführenden Staates eingeräumt werden sollte, unmittelbar auch dem Delegierten der schweizerischen Regierung zugestanden würde.

3. Der Beitritt der Schweiz zu der Konvention wird am 1. September 1906 wirksam werden.

Zu Urkund dessen haben die unterzeichneten Vertreter der der Zuckerkonvention angehörenden Staaten, einerseits, und der Schweiz, anderseits, das gegenwärtige Protokoll unterzeichnet.

Geschehen in Brüssel, in einer Ausfertigung, am 26. Juni 1906.

(Unterschriften.)

3.

ALLEMAGNE, AUTRICHE-HONGRIE, BELGIQUE, FRANCE, LUXEMBOURG, PAYS-BAS, PÉROU, RUSSIE, SUÈDE, SUISSE.

Protocole en vue de prolonger la Convention relative au régime des sucres du 5 mars 1902;*) signé à Bruxelles, le 17 mars 1912, suivi de plusieurs Déclarations, signées à la date du même jour.**)

Deutsches Reichs-Gesetzblatt 1912. No. 21. — Staatsblad van het Koninkrijk der Nederlanden 1912. No. 117.

Protocole
concernant la prorogation de l'Union internationale constituée par la Convention des sucres du 5 mars 1902.

Les Gouvernements de l'Allemagne, de l'Autriche-Hongrie, de la Belgique, de la France, du Luxembourg, des Pays-Bas, du Pérou, de la Russie, de la Suède et de la Suisse, ayant décidé de maintenir en vigueur après la date du 31 août 1913 l'Union internationale constituée par la Convention des sucres du 5 mars 1902, les soussignés, à ce dûment autorisés, sont convenus de ce qui suit:

Article premier.

Les Etats contractants s'engagent à prolonger pour un nouveau terme de cinq ans, qui prendra cours le 1er septembre 1913, la Convention relative au régime des sucres du

(Übersetzung.)

Protokoll,
betreffend die Fortsetzung der durch den Zuckervertrag vom 5. März 1902 gebildeten internationalen Vereinigung.

Nachdem die Regierungen Deutschlands Österreich-Ungarns, Belgiens, Frankreichs, Luxemburgs, der Niederlande, Perus, Russlands, Schwedens und der Schweiz beschlossen haben, die durch den Zuckervertrag vom 5. März 1902 gebildete internationale Vereinigung über den 31. August 1913 hinaus aufrechtzuerhalten, haben die hierzu gehörig ermächtigten Unterzeichneten folgendes vereinbart:

Artikel 1.

Die vertragschliessenden Staaten verpflichten sich, den Vertrag über die Behandlung des Zuckers vom 5. März 1902 mit den durch das Protokoll vom 26. Juni 1906, be-

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*) V. N. R. G. 2. s. XXXI, p. 272.

**) Le Protocole a été ratifié par l'Allemagne, l'Autriche-Hongrie, la Belgique, la France, le Luxembourg, les Pays-Bas et la Russie. Comp. l'Article 3.

5 mars 1902, telle qu'elle a été amendée et complétée par le Protocole du 26 juin 1906 relatif à l'accession de la Suisse,*) par l'Acte additionnel à ladite Convention du 28 août 1907**) et par le Protocole du 19 décembre 1907***) relatif à l'adhésion de la Russie, — sous réserve de l'attribution à la Suisse du droit de vote que le Protocole du 26 juin 1906 ne lui avait pas accordé et sous réserve également des dispositions faisant l'objet de l'article 2 ci-après.

Lesdits Etats contractants renoncent, en conséquence, à user de la faculté que leur concédait l'article 10 de la Convention du 5 mars 1902, quant à la dénonciation de cet acte diplomatique.

Article 2.

Le contingent d'exportation de 200,000 tonnes accordé à la Russie par l'article 3 du Protocole du 19 décembre 1907 pour chacun des quatre exercices compris entre le 1er septembre 1909 et le 31 août 1913 est maintenu pour chacun des cinq exercices compris entre le 1er septembre 1913 et le 31 août 1918.

Prenant en considération le fait que, par suite de circonstances exceptionnelles, il s'est produit, en 1911—1912, simultanément une pénurie de sucre et une élévation considérable du prix sur le marché mondial, les Etats contractants consentent à ce que la Russie bénéficie d'un contingent extraordinaire, qui sera réparti comme suit:

*) V. ci-dessus, No. 2.
***) V. ibid. p. 880.

treffend den Beitritt der Schweiz,*) sowie durch die Zusatzakte zu dem vorbezeichneten Vertrage vom 28. August 1907**) und durch das Protokoll vom 19. Dezember 1907, betreffend den Beitritt Russlands zum Zuckervertrage***), herbeigeführten Änderungen und Ergänzungen für eine neue, vom 1. September 1913 an laufende Frist von fünf Jahren zu verlängern — mit dem Vorbehalte, dass der Schweiz das ihr in dem Protokolle vom 26. Juni 1906 nicht bewilligte Stimmrecht erteilt wird und vorbehaltlich auch der Bestimmungen des nachstehenden Artikel 2.

Die genannten vertragschliessenden Staaten verzichten demgemäss darauf, von dem im Artikel 10 des Vertrags vom 5. März 1902 ihnen eingeräumten Kündigungsrechte Gebrauch zu machen.

Artikel 2.

Das durch Artikel 3 des Protokolls vom 19. Dezember 1907 für jedes der vier Betriebsjahre vom 1. September 1909 bis 31. August 1913 Russland bewilligte Ausfuhrkontingent von 200000 Tonnen wird für jedes der fünf Betriebsjahre vom 1. September 1913 bis 31. August 1918 aufrechterhalten.

In Anbetracht der Tatsache, dass im Betriebsjahre 1911/12 infolge aussergewöhnlicher Umstände gleichzeitig eine Zuckerknappheit und eine beträchtliche Preissteigerung auf dem Weltmarkt eingetreten ist, willigen die vertragschliessenden Staaten darein, dass Russland noch ein ausserordentliches Kontingent erhält, das in folgender Weise verteilt wird:

**) V. N. R. G. 3 s. I, p. 874.

Exercice	1911-1912	150,000 tonnes.
„	1912-1913	50,000 „
„	1913-1914	50,000 „

Article 3.

Le présent Protocole sera ratifié et les ratifications en seront déposées à Bruxelles, au Ministère des Affaires Etrangères, le plus tôt possible et, en tous cas, avant le 1er avril 1912.

Il deviendra obligatoire de plein droit à cette date s'il a été ratifié au moins par les Etats européens exportateurs de sucre spécifiés ci-après: Allemagne, Autriche-Hongrie, Belgique, France, Pays-Bas, Russie.

Cette éventualité se trouvant réalisée, les autres Etats signataires du présent Protocole qui ne l'auraient pas ratifié à la date précitée pourront néanmoins, en le ratifiant avant le 1er septembre de la même année, continuer à faire partie de l'Union internationale aux conditions qui leur sont faites actuellement et pour toute la durée du présent Protocole, pourvu que, avant le 1er avril 1912, ils aient donné leur assentiment définitif à l'attribution à la Russie du contingent extraordinaire prévu à l'article 2 du présent Protocole.*) Ils ne pourront, en aucun cas, se prévaloir de la clause de tacite reconduction visée à l'article 10 de la Convention du 5 mars 1902 pour continuer, d'année en année, leur participation à l'Union.

Betriebsjahr	1911/12	150000 Tonnen.
„	1912/13	50000 „
„	1913/14	50000 „

Artikel 3.

Das gegenwärtige Protokoll soll ratifiziert und die Ratifikationsurkunden sollen sobald wie möglich und auf alle Fälle vor dem 1. April 1912 im Ministerium der auswärtigen Angelegenheiten in Brüssel niedergelegt werden.

Es soll an diesem Tage rechtsverbindlich werden, wenn es wenigstens von den nachstehend aufgeführten europäischen Zuckerausfuhrstaaten ratifiziert ist: Deutschland, Österreich-Ungarn, Belgien, Frankreich, Niederlande, Russland.

Ist dies geschehen, so können die übrigen Staaten, die das gegenwärtige Protokoll gezeichnet, aber nicht bis zu dem vorerwähnten Tage ratifiziert haben, dennoch, unter Ratifizierung vor dem 1. September desselben Jahres, zu den gegenwärtig für sie geltenden Bedingungen und für die ganze Geltungsdauer des gegenwärtigen Protokolls, der internationalen Vereinigung weiter angehören, sofern sie vor dem 1. April 1912 ihre endgültige Zustimmung zu der im Artikel 2 vorgesehenen Bewilligung des ausserordentlichen Kontingents an Russland erklärt haben.*) In keinem Falle können sie sich auf die Klausel der im Artikel 10 des Vertrags vom 5. März 1902 erwähnten stillschweigenden Verlängerung berufen, um ein Weiterverbleiben bei der Vereinigung von Jahr zu Jahr in Anspruch zu nehmen.

*) V. ci-dessous.

Article 4.

Dans la session qui précédera le 1er septembre 1917, la Commission permanente statuera par un vote d'unanimité sur le régime qui serait celui de la Russie au cas où elle serait disposée à continuer sa participation à la Convention au delà du terme du 1er septembre 1918.

Dans le cas où la Commission ne pourrait se mettre d'accord, la Russie serait considérée comme ayant dénoncé la Convention pour cesser effet à compter du 1er septembre 1918.

Article 5.

Il sera loisible à chacun des Etats contractants de se retirer de l'Union à partir du 1er septembre 1918 moyennant préavis d'un an; dès lors, les dispositions de l'article 10 de la Convention du 5 mars 1902 concernant la dénonciation et la tacite reconduction redeviendront applicables.

En foi de quoi, les soussignés, Plénipotentiaires des Etats respectifs, ont signé le présent Protocole.

Fait à Bruxelles, le 17 mars 1912, en un seul exemplaire original, dont une copie conforme sera délivrée à chacun des Gouvernements signataires.

Pour l'Allemagne:
Signé: *von Flotow.*
„ *Hermann Mehlhorn.*
„ *Kempff.*

Pour l'Autriche-Hongrie:
Signé: *Comte Clary et Aldringen.*

Pour l'Autriche:
Signé: *Leopold Joas.*

Artikel 4.

In der vor dem 1. September 1917 abzuhaltenden Tagung soll die ständige Kommission durch Einstimmigkeitsbeschluss über die fernere Behandlung Russlands für den Fall befinden, dass Russland geneigt wäre, über den 1. September 1918 hinaus sich an dem Vertrage weiter zu beteiligen.

Sollte die Kommission sich hierüber nicht einigen können, so würde es so angesehen werden, als wenn Russland den Vertrag mit Wirkung vom 1. September 1918 ab gekündigt hätte.

Artikel 5.

Es soll jedem der Vertragstaaten freistehen, vom 1. September 1918 ab nach einjähriger Kündigung von der Vereinigung zurückzutreten; von da ab werden die Bestimmungen des Artikel 10 der Konvention vom 5. März 1902 über die Kündigung und die stillschweigende Verlängerung wieder anwendbar.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten der betreffenden Staaten das gegenwärtige Protokoll gezeichnet.

Geschehen in Brüssel, am 17. März 1912, in einer einzigen Originalausfertigung, von der eine gleichlautende Abschrift jeder der unterzeichneten Regierungen zugestellt werden soll.

Pour la Hongrie:
Signé: *Teleszky Janos.*

Pour la Belgique:
Signé: *Capelle.*

Pour la France:
Signé: *A. Klobukowski.*
" *A. Delatour.*

Pour le Luxembourg:
Signé: *Le Comte d'Ansembourg.*

Pour les Pays-Bas:
Signé: *O. D. van der Staal de Piershil.*

Pour le Pérou:
Signé: *Telémaco Orihuela.*

Pour la Russie:
Signé: *Koudacheff.*

Pour la Suède:
Signé: *F. de Klercker.*

Pour la Suisse:
Signé: *Jules Borel.*

Déclaration relative à l'attribution à la Russie du contingent extraordinaire prévu à l'article 2 du Protocole du 17 mars 1912, concernant la prorogation de l'Union internationale des sucres.

Déclaration.

Les soussignés, au moment de procéder à la signature du Protocole concernant la prorogation de l'Union internationale des sucres, déclarent ce qui suit:

La répartition des deux contingents supplémentaires de 50,000 tonnes

Erklärung zu der Bewilligung des ausserordentlichen Kontingents an Russland gemäss Artikel 2 des Protokolls vom 17. März 1912, betreffend die Fortsetzung der internationalen Zuckervereinigung.

Erklärung.

Im Begriffe, zur Unterzeichnung des Protokolls, betreffend die Fortsetzung der internationalen Zuckervereinigung, zu schreiten, erklären die Unterzeichneten folgendes.

Die Verteilung der beiden für die Betriebsjahre 1912/13 und 1913/14

attribués à la Russie pour les exercices 1912/1913 et 1913/1914 se fera de telle manière que la quotité du contingent extraordinaire pour chacun des quatre semestres compris entre le 1er septembre 1912 et le 31 août 1914 ne dépasse pas 25,000 tonnes.

Pour l'Allemagne:
Signé: *von Flotow.*
„ *Hermann Mehlhorn.*
„ *Kempff.*

Pour l'Autriche-Hongrie:
Signé: *Comte Clary et Aldringen.*

Pour l'Autriche:
Signé: *Leopold Joas.*

Pour la Hongrie:
Signé: *Teleszky Janos.*

Pour la Belgique:
Signé: *Capelle.*

Pour la France:
Signé: *A. Klobukowski.*
„ *A. Delatour.*

Pour le Luxembourg:
Signé: *Le Comte d'Ansembourg.*

Pour les Pays-Bas:
Signé: *O. D. van der Staal de Piershil.*

Pour le Pérou:
Signé: *Telémaco Orihuela.*

Pour la Russie:
Signé: *Koudacheff.*

Pour la Suède:
Signé: *F. de Klercker.*

Pour la Suisse:
Signé: *Jules Borel.*

Russland bewilligten Überkontingente von 50000 Tonnen erfolgt in der Weise, dass der Anteil des ausserordentlichen Kontingents für jedes der vier Halbjahre zwischen dem 1. September 1912 und dem 31. August 1914 25000 Tonnen nicht übersteigt.

*Deuxième Déclaration.**)

Les soussignés, au moment de procéder à la signature du Protocole concernant la prorogation de l'Union internationale des sucres, sont autorisés à déclarer ce qui suit:

Les Gouvernements qu'ils représentent s'engagent, pour le cas où ils ne pourraient ratifier le Protocole précité avant le 1er avril 1912, à donner, tout au moins à cette date, leur assentiment définitif à l'attribution à la Russie du contingent extraordinaire prévu à l'article 2 dudit Protocole.

En foi de quoi ils ont signé la présente Déclaration.

Fait à Bruxelles, le 17 mars 1912, en un seul exemplaire original, dont une copie conforme sera délivrée à chacun des Gouvernements signataires.

Pour le Luxembourg:

Signé: *Le Comte d'Ansembourg.*

Pour le Pérou:

Signé: *Telémaco Orihuela.*

Pour la Suède:

Signé: *de Klercker.*

Pour la Suisse:

Signé: *Jules Borel.*

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*Troisième Déclaration.**)

Le soussigné est autorisé à déclarer que le Gouvernement de Sa Majesté le Roi d'Italie donne son assentiment à l'attribution à la Russie du contingent extraordinaire pour les exercices 1911—1912 et 1912—1913.

Bruxelles, le 17 mars 1912.

Signé: *Costa.*

Copie certifiée conforme:

Le Secrétaire-Général
de la Commission permanente,
J. Brunet.

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*) Staatsblad.

4.

GRANDE-BRETAGNE, COLOMBIE.

Arrangement concernant le règlement, par voie d'arbitrage, des conflits entre les deux pays; signé à Bogotá, le 30 décembre 1908.

Treaty Series 1909. No. 5.

Agreement between the United Kingdom and Colombia providing for the Settlement by Arbitration of certain classes of questions which may arise between the two Governments.

The Government of His Britannic Majesty and the Government of the Colombian Republic, signatories of the Convention for the pacific settlement of international disputes, concluded at the Hague on the 29th July, 1899;*)

Taking into consideration that by Article 19 of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment,

Have authorized:

The Government of His Britannic Majesty, Mr. Francis William Stronge, Minister Resident; and

The Government of the Republic of Colombia, Señor Doctor Francisco José Urrutia, Minister for Foreign Affairs,

to conclude the following arrangement:

Convenio entre la República de Colombia y el Reino Unido de la Gran Bretaña sobre arreglo por Arbitraje, de algunas cuestiones que puedan surgir entre los dos Gobiernos.

El Gobierno de la República de Colombia y el Gobierno de Su Majestad Británica, signatarios de la Convención para el arreglo pacífico de los conflictos internacionales firmada en La Haya el 29 de Julio de 1899;*)

Considerando que por el artículo 19 de dicha Convención, las Altas Partes Contratantes se reservaron concluir acuerdos sobre Arbitraje en todos los casos que juzguen posible apelar á ese recurso,

Han autorizado:

El Gobierno de la República de Colombia, al Señor Doctor Francisco José Urrutia, Ministro de Relaciones Exteriores, y

El Gobierno de Su Majestad Británica, al Señor Francis William Stronge, Ministro Residente,

para acordar las disposiciones siguientes:

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*) V. N. R. G. 2. s. XXVI, p. 920.

Article 1.

Differences which may arise of a legal nature, or relating to the interpretation of Treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at the Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence or the honour of the two Contracting States, and do not concern the interests of third Parties.

Article 2.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure.

Article 3.

The present Agreement is concluded for a period of five years, dating from the day of signature.

Done in duplicate at Bogotá, the thirtieth day of December, one thousand nine hundred and eight.

Artículo 1.

Las cuestiones de orden jurídico ó relativas á la interpretación de los Tratados existentes entre las dos Partes Contratantes que surgieren entre ellas y que no hubieren podido arreglarse por la vía diplomática, serán sometidas á la Corte permanente de Arbitraje establecida por la Convención del 29 de Julio de 1899, en La Haya, con la condición, en todo caso, de que no comprometan ni los intereses vitales, ni la independencia ó el honor de los dos Estados Contratantes y de que no afecten los intereses de terceras Potencias.

Artículo 2.

En cada caso particular, las Altas Partes Contratantes, antes de dirigirse á la Corte permanente de Arbitraje, firmarán un compromiso especial en que se determine claramente el objeto del litigio, la extensión de poderes de los árbitros y los términos que hayan de observarse en lo concerniente á la constitución del Tribunal Arbitral y al procedimiento.

Artículo 3.

El presente convenio permanecerá en vigor por un término de cinco años, contados desde el día en que se firme.

Hecho en Bogotá, por duplicado, el treinta de Diciembre de mil novecientos ocho.

(L. S.) *Francis Stronge.*
(L. S.) *Francisco José Urrutia.*

5.

COLOMBIE, PÉROU.

Accord d'amitié et d'arbitrage; signé à Lima, le 21 avril 1909, suivi d'une Convention supplémentaire; signée à Bogotá, le 13 avril 1910.

Copie officielle.

El Gobierno de la República de Colombia y el de la República del Perú, deseando poner término en forma cordial a los desacuerdos que han surgido entre ellos y evitar en lo sucesivo toda posibilidad de conflictos en la región de la frontera, estableciendo al mismo tiempo sus relaciones de amistad en pie de perfecta inteligencia y armonía, han resuelto celebrar un convenio que traduzca fielmente esos propósitos, para cuyo efecto han autorizado debidamente a sus plenipotenciarios a saber:

El Presidente de la República de Colombia al señor don Luis Tanco Argáez, Enviado Extraordinario y Ministro Plenipotenciario de dicha República en el Perú;

El Presidente de la República del Perú al señor doctor don Melitón F. Porras, Ministro de Relaciones Exteriores, quienes han acordado lo siguiente:

I.

Los Gobiernos de Colombia y del Perú expresan sus sentimientos de vivo pesar por los sucesos ocurridos en la región del Putumayo el año último y, en señal de mutua satisfacción, convienen en constituir por medio de una convención especial, suscrita dentro del término de tres meses contados desde la fecha en que se ponga en vigencia el presente acuerdo, una comisión internacional que averigue y establezca los hechos ocurridos en dicha región, dando cuenta del resultado de sus investigaciones por medio de un informe. Si después de rendido este informe, no logran ponerse de acuerdo ambos Gobiernos sobre las responsabilidades que de tales hechos se deriven, se someterá el asunto a una decisión arbitral. Determinada la responsabilidad de los que resulten culpables, sufrirán éstos las penas que la ley respectiva señale, siguiéndose previamente el procedimiento que corresponda. Se indemnizará además en forma equitativa a los que hayan sufrido daños materiales, y a las familias de las víctimas por razón de hechos declarados punibles.

II.

Los Gobiernos de Colombia y del Perú convienen en reanudar sus negociaciones sobre delimitación de fronteras inmediatamente después que se pronuncie el laudo en el juicio arbitral que se sigue en Madrid a

mérito del tratado celebrado entre el Perú y el Ecuador en 1887 y acuerdan recurrir al arbitraje si no lograsen obtener la solución de sus divergencias en forma directa.

III.

Si trascurrieran tres meses a partir de la vigencia de este convenio sin que Su Majestad el Rey de España haya pronunciado el laudo en el juicio arbitral perú-ecuatoriano, los dos Gobiernos se comprometen a celebrar un pacto de modus vivendi referente á los territorios en litigio en forma que inpida en ellos la posibilidad de luchas o el choque de intereses entre ciudadanos de uno y otro país.

IV.

Con el propósito de fomentar el comercio que existe entre Colombia y el Perú, tanto en la región oriental como en las costas del Pacífico, los dos Gobiernos convienen en celebrar un Tratado de comercio y navegación sobre bases de recíproca conveniencia.

En fe de lo cual, firman el presente acuerdo en doble ejemplar, poniéndole sus respectivos sellos, en Lima, a veintiún días del mes de abril de mil novecientos nueve.

(L.S.) *Luis Tanco Argáez.*
(L.S.) *M. F. Porras.*

Convenio

reformatorio del celebrado el 21 de Abril de 1909.

El Gobierno de la República de Colombia y el de la República del Perú, deseando cumplir y ampliar lo estipulado en el artículo 1º. del acuerdo diplomático de amistad y arbitraje celebrado en Lima el 21 de Abril de 1909, han resuelto celebrar un Convenio que traduzca fielmente sus propósitos, para lo cual han autorizado debidamente á sus Plenipotenciarios respectivos, á saber:

El Presidente de la República de Colombia, al Señor Doctor Don Carlos Calderón, Ministro de Relaciones Exteriores, y

El Presidente de la República del Perú, al Señor Don Ernesto de Tezanos Pinto, Enviado Extraordinario y Ministro Plenipotenciario de dicha República en Bogotá,

Quienes han acordado lo siguiente:

Artículo Iº. Los Gobiernos de Colombia y del Perú acuerdan constituir por medio de este Convenio una Comisión Mixta Internacional á quien corresponda:

1º. Fijar el monto de la indemnización pecuniaria que uno de los dos países deba pagarle al otro por causa de los daños que las autoridades ó ciudadanos del mismo país hayan causado á las personas ó propiedades

del otro en la región comprendida entre los ríos Caquetá y Amazonas hasta la fecha de este Convenio.

2º. Determinar los casos en los cuales se deba proceder, de acuerdo con las leyes del respectivo país, á investigaciones judiciales encaminadas al juzgamiento y castigo de los individuos responsables por hechos punibles ejecutados en el mismo territorio y en el mismo tiempo.

Artículo II. La Comisión Mixta se reunirá en Río de Janeiro y estará constituida por un Delegado nombrado por el Gobierno de Colombia, otro nombrado por el Gobierno del Perú y un Tercero en discordia, que será Su Excelencia el Señor Barón de Río-Branco, actual Ministro de Relaciones Exteriores de los Estados Unidos del Brasil, quien deberá presidirla si tiene á bien aceptar el cargo.

Artículo III. Los Gobiernos de Colombia y del Perú solicitarán de Su Excelencia el Señor Barón de Río-Branco que acepte el cargo de Tercero en discordia en la Comisión Mixta Internacional á que se refiere este Convenio, y si no quisiere ó no pudiere aceptar este cargo, los dos Gobiernos se dirigirán á Su Excelencia el Señor Ministro de la Gran Bretaña en Río de Janeiro con igual fin. Si el Señor Ministro de la Gran Bretaña se excusare también de aceptarlo, se pedirá á Su Excelencia el Ministro del Imperio Alemán en Río de Janeiro que lo desempeñe, y si éste tampoco pudiere aceptarlo, el Tercero será nombrado por acuerdo entre los Delegados de Colombia y del Perú, al momento de entrar á ejercer sus funciones de Miembros de la Comisión Mixta.

Artículo IV. Será Presidente de la Comisión Mixta el Tercero en discordia, y su voto y opinión decidirán en cualquier caso de desacuerdo entre los otros dos Miembros de ella.

Artículo V. La Comisión Mixta Internacional se reunirá dentro de cuatro meses contados desde el día en que se firme el presente Convenio, y tendrá facultad para enviar comisiones nombradas por ella á los lugares á donde lo considere necesario con el fin de obtener datos é informes fidedignos que ilustren su criterio y puedan servir de base para fallar con pleno conocimiento de causa.

Artículo VI. Los Gobiernos de Colombia y del Perú podrán presentar á la Comisión toda clase de exposiciones, memorias y alegatos, de pruebas y de contrapruebas, y hacer defender sus pretenciones de palabra y por escrito con toda libertad, durante el término que con tal objeto fije la Comisión Mixta Internacional.

Artículo VII. Dentro de un término de cuatro meses después de vencido el plazo para la presentación de los alegatos, réplicas y contrarréplicas, pruebas y contrapruebas por las Partes, la Comisión Mixta Internacional dictará su decisión para determinar los casos en los cuales se deba proceder á las investigaciones judiciales de que se ha hablado en el Parágrafo 2º. del Artículo 1.

Artículo VIII. Dentro del mismo termino de cuatro meses, la Comisión Mixta Internacional fijará igualmente en su fallo arbitral la suma que se deba pagar, de acuerdo con el Parágrafo 1º. del Artículo I, por cualquiera

de los dos Gobiernos al otro, á título de indemnización, á favor de las personas que hayan sufrido daños materiales ó personales por hechos punibles y á favor de las familias de las víctimas de tales hechos.

Artículo IX. Estos pagos deberán fijarse en monedas de oro inglés y efectuarse en esta especie, en la capital del país que resulte obligado, á más tardar, cuatro meses después de la fecha de la sentencia dictada por la Comisión Mixta Internacional.

Los particulares que se acojan á las decisiones de la Comisión Mixta en cuanto á la indemnización por los daños sufridos, renuncian virtualmente al derecho de reclamar nueva indemnización por las mismas causas, contra el Gobierno que les otorgó la primera.

Artículo X. Cuando la Comisión Mixta haya llenado su cometido, comunicará su juicio á los respectivos Gobiernos, para que, siguiéndose previamente la causa criminal á que haya lugar, según las leyes del respectivo país, se les imponga á los culpables las penas que las mismas leyes señalan.

Parágrafo. Para determinar á cual de las dos Repúblicas corresponde en cada caso el enjuiciamientio y castigo de los culpables, la Comisión Mixta observará las reglas siguientes:

1ª. A los Tribunales de cada una de las dos Repúblicas corresponde conocer de los delitos cometidos por sus funcionarios ó empleados públicos en el ejercicio de su cargo.

2ª. A los Tribunales de cada una de las dos Repúblicas corresponde igualmente conocer de los delitos cometidos por los Jefes, Oficiales ó individuos de tropa de su ejército, ó por los Comandantes, Oficiales ó tripulantes de sus naves de guerra ó de naves empleadas en su servicio.

3ª. De los delitos cometidos por particulares corresponde conocer á los Tribunales de la República en cuyo territorio se cometieron.

Si los hechos punibles tuvieron lugar dentro de territorio disputado por ambas Repúblicas, la Comisión resolverá á cuál de ellas corresponde conocer del juicio criminal, teniendo en cuenta para ello únicamente cuál de las dos Repúblicas tenía constituídas autoridades en ese territorio. Pero si el individuo responsable se hallare en lugar ocupado por su país de origen en el momento en que la Comisión Mixta determine á qué jurisdicción haya de estar sometido, será juzgado conforme á las leyes de aquel país. Los nacionales de un tercer país serán juzgados por los jueces del en que se hallen después de suscrito este Convenio.

Si los hechos punibles se hubieren realizado en territorio en el cual ninguna de las Partes Contratantes tenía á la sazón constituídas autoridades, corresponderá conocer del juicio criminal por tales hechos á los Tribunales del país á que pertenezcan los individuos sindicados.

Lo estipulado en este artículo no implica, por parte de una de las Repúblicas contratantes, el reconocimiento de la jurisdicción ejercida por su limítrofe en el territorio disputado, para efectos diferentes de los del cumplimiento del Laudo arbitral.

Artículo XI. El fallo de la Comisión Mixta Internacional será definitivo é inapelable y quedará ejecutoriado en la misma fecha en que haya sido dictado.

El dicho fallo será comunicado á las Legaciones de los dos países en Río de Janeiro, y á falta de éstas, á los respectivos Gobiernos.

Artículo XII. El Gobierno de Colombia y el del Perú arreglarán y pagarán separadamente los honorarios de su respectivo Arbitro y estipularán conjuntamente los del Tercero en discordia. Estos últimos honorarios, así como los otros gastos de caracter común que ocasione la Comisión Mixta, se dividirán por mitad y serán pagados por ambos Gobiernos dentro del término de tres meses de decididas todas las cuestiones sometidas al fallo de la Comisión Mixta.

Artículo XIII. Este Convenio será considerado como reformatorio del que fué celebrado en Lima por Su Excelencia el Enviado Extraordinario y Ministro Plenipotenciario de Colombia en esa ciudad y el Ministro de Relaciones Exteriores del Perú el 21 de Abril de 1909, y surtirá sus efectos desde la fecha en que se suscribe.

En fe de lo cual firman, en doble ejemplar, el presente Convenio, en Bogotá, á trece de Abril de mil novecientos diez.

(L. S.) *Carlos Calderón.*
(L. S.) *E. de Tezanos Pinto.*

6.

VÉNÉZUÉLA, BRÉSIL.

Convention d'arbitrage; signée à Caracas, le 30 avril 1909.*)

Gaceta oficial (Caracas) 1909. No. 10.685.

Convención de arbitraje entre los Estados Unidos de Venezuela y los Estados Unidos del Brasil.

El Encargado de la Presidencia de los Estados Unidos de Venezuela y el Presidente de los Estados Unidos del Brasil, deseando ajustar una Convención de Arbitraje de acuerdo con los principios enunciados en los artículos números XV á XIX y en el artículo XXI de la Convención para el Arreglo Pacífico de los Conflictos Internacionales, firmada en La Haya el 29 de julio de 1899**), han autorizado debidamente á los infraescritos, Doctor Francisco González Guinán, Ministro de Rela-

*) Les ratifications ont été échangées à Caracas, le 8 janvier 1912. V. American Journal of International Law VI, p. 504.

**) V. N. R. G., 2. s. XXVI, p. 920.

ciones Exteriores de los Estados Unidos de Venezuela, y Don Luiz R. de Lorena Ferreira, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos del Brasil en los Estados Unidos de Venezuela, los cuales han convenido en los artículos siguientes:

Artículo I.

Las diferencias que puedan ocurrir en cuestiones de carácter jurídico ó relativas á la interpretación de los tratados existentes entre las dos Altas Partes Contratantes y que no haya sido posible resolver por vía diplomática, serán sometidas al Tribunal Permanente de Arbitraje de La Haya, con tal que no afecten los intereses vitales, la independencia ó la honra de las dos Altas Partes Contratantes y que no perjudiquen intereses de tercero.

Queda, además, entendido que si una de las dos Altas Partes Contratantes lo prefiere, cualquier arbitraje de los que trata esta Convención se efectuará ante un Jefe de Estado amigo ó ante árbitros escogidos sin limitación en las listas del referido Tribunal Permanente de Arbitraje de La Haya.

Artículo II.

En cada caso particular, las dos Altas Partes Contratantes, antes de acudir al Tribunal Permanente de Arbitraje de La Haya ó á otros árbitros ó árbitro singular, firmarán un compromiso especial que determine claramente la materia en litigio, la extensión de los poderes del árbitro ó de los árbitros y los términos que haya de fijarse para la constitución del tribunal ó la elección del árbitro ó de los árbitros y los diversos trámites del procedimiento arbitral. Queda entendido que ese compromiso especial será celebrado por los Presidentes de uno y otro Estado y estará sujeto en los dos países á las formalidades establecidas por las leyes constitucionales respectivas.

Artículo III.

La presente Convención estará en vigor por un período de cinco años contados desde el día en que se canjéen sus ratificaciones, y, si no fuere denunciada seis meses antes de la expiración del plazo arriba establecido, quedará renovada por un año más y así en lo adelante, sucesivamente.

Artículo IV.

La presente Convención será ratificada por el Presidente de los Estados Unidos de Venezuela, de conformidad con la constitución y leyes de éstos, y por el Presidente de los Estados Unidos del Brasil, con la autorización del Congreso Federal. Las ratificaciones se canjearán en la ciudad de Caracas dentro del plazo más breve posible y la Convención comenzará á regir inmediatamente después del canje de las ratificaciones.

En fe de lo cual, nosotros, los infraescritos supranombrados, firmamos el presente instrumento por duplicado, en castellano y en portugués, poniendo en ellos nuestros sellos.

Fecho en la ciudad de Caracas á los treinta días del mes de abril de mil novecientos nueve.

(L. S.) *F. González Guinán.*
(L. S.) *Luiz R. de Lorena Ferreira.*

Estados Unidos de Venezuela. — Ministerio de Relaciones Exteriores. — Dirección de Derecho Público Exterior. — Número 538. — Caracas: 30 de abril de 1909.

Señor Ministro:

Firmada la Convención de Arbitraje de esta misma fecha, quedó naturalmente entendido entre nosotros que su artículo 1º excluye del arbitraje obligatorio las cuestiones que, según la ley territorial, deben ser resueltas por los tribunales nacionales.

Aun cuando esta declaración parezca excusada, no deja de ser conveniente consignarla aquí por escrito y mencionarla luego en el acta del canje de las ratificaciones de la Convención en referencia, á fin de evitar cualquier duda en lo futuro.

Espero que V. E. se servirá acusarme recibo de esta nota y manifestarme su conformidad con lo que antecede.

Aprovecho gustoso esta oportunidad para reiterar á V. E. las seguridades de mi más alta consideración.

F. González Guinán.

Al Excelentísimo Señor Don Luiz R. de Lorena Ferreira, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos del Brasil.

(Traducción)

Legación de los Estados Unidos del Brasil. — Caracas: 30 de abril de 1909.

Señor Ministro:

Tengo la honra de avisar el recibo de la Nota de V. E. fecha hoy, número 538, y en respuesta á ella cúmpleme declarar á V. E. que efectivamente las reservas hechas en el artículo I de la Convención que hoy firmamos excluye del arbitraje obligatorio las cuestiones que según la ley territorial deben ser resueltas por los tribunales nacionales.

Concuerdo con V. E. en la conveniencia de consignar por escrito esta declaración y asimismo mencionarla más tarde en el acta del canje de las ratificaciones de la referida Convención, á fin de evitar cualquier duda en lo porvenir.

Aprovecho la oportunidad para reiterar á V. E. las protestas de mi más alta consideración.

Luiz R. de Lorena Ferreira.

Al Excelentísimo Señor Doctor Francisco González Guinán, Ministro de Relaciones Exteriores de los Estados Unidos de Venezuela.

7.

ETATS-UNIS D'AMÉRIQUE, CHILI.

Protocole d'arbitrage; signé à Santiago, le 1er décembre 1909.*)

Treaty Series No. 535 1/2.

The Government of the United States of America and the Government of the Republic of Chile, through their respective Plenipotentiaries, to-wit:

Seth Low Pierrepont, Chargé d'Affaires of the United States of America, and Agustin Edwards, Minister of Foreign Affairs of Chile, who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following

Protocol of Submission.

Whereas the Government of the United States of America and the Government of the Republic of Chile have not been able to agree as to the amount equitably due the claimants in the Alsop claim;

Therefore, the two Governments have resolved to submit the whole controversy to His Britannic Majesty Edward VII who as an „aimable compositeur" shall determine what amount, if any, is, under all the facts and circumstances of the case, and taking into consideration all documents, evidence, correspondence, allegations, and arguments which may be presented by either Government, equitably due said claimants.

El Gobierno de los Estados Unidos de América i el Gobierno de la República de Chile, por medio de sus respectivos Plenipotenciarios, a saber:

El Señor Seth Low Pierrepont, Encargado de Negocios de los Estados Unidos de América, i el Señor Agustin Edwards, Ministro de Relaciones Esteriores de Chile, quienes, despues de comunicarse sus respectivos plenos poderes, encontrados en buena i debida forma, han accordado i concluido el siguiente

Protocolo de Compromiso.

Por cuanto el Gobierno de los Estados Unidos de América i el Gobierno de la República de Chile no han podido ponerse de acuerdo sobre la suma que en equidad se adenda a los reclamantes en la reclamacion Alsop;

Han resuelto deferir toda la controversia a Su Majestad Británnica Eduardo VII, quien, en calidad de „amigable componedor" determinará qué suma, si hubiese lugar a ello, se debe en equidad a los reclamantes, en virtud de todos los hechos i circunstancias del caso, i tomando en consideracion todos los documentos, pruebas, correspondencia, alegaciones i argumentaciones que se presenten por uno i otro Gobierno.

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*) V. la Sentence arbitrale, ci-dessous No. 8.

The full case of each Government shall be submitted to His Britannic Majesty, and to the other Government through its duly accredited representative at St. James, within six months from the date of this agreement; each Government shall then have four months in which to submit a counter case to His Britannic Majesty, and to the other Government as above provided, which counter case shall contain only matters in defense of the other's case.

The case shall then be closed unless His Britannic Majesty shall call for further documents, evidence, correspondence, or arguments from either Government, in which case such further documents, evidence, correspondence, or arguments shall be furnished within sixty days from the date of the call. If not so furnished within the time specified, a decision in the case shall be given as if such documents, evidence, correspondence, or arguments did not exist.

The decision by His Britannic Majesty shall be accepted as final and binding upon the two Governments.

In witness whereof, the undersigned Plenipotentiaries of the United States and Chile have signed the above Protocol both in the English and Spanish languages, and hereunto affixed their seals.

Done in duplicate, at the City of Santiago, this 1st. day of December, 1909.

Una esposicion completa de la cuestion será presentada por cada Gobierno a Su Majestad Británnica i al Gobierno contrario por el órgano de su representante debidamente acreditado en St. James, dentro de seis meses contados desde la fecha de este convenio; cada Gobierno dispondrá en seguida de cuatro meses para presentar, en la forma ya indicada, su contestacion a Su Majestad Británnica i al otro Gobierno, i en ella solo podrá referirse a las alegaciónes contenidas en la esposicion de la parte contraria.

El debate quedará con esto cerrado, a ménos que Su Majestad Británnica requiriese nuevos documentos, pruebas, correspondencia o alegaciones de uno i otro Gobierno, en cuyo caso esos documentos, pruebas, correspondencia o alegaciones se suministrarán dentro de sesenta dias a contar de la fecha del requerimiento. Si no fueren presentados dentro del plazo indicado, se pronunciará el fallo en la causa como si tales documentos, pruebas, correspondencia i alegaciones no existiesen.

El laudo de Su Majestad Británnica será aceptado como definitivo i obligatorio para los dos Gobiernos.

En fé de lo cual, los infrascritos Plenipotenciarios de los Estados Unidos i Chile han firmado el precedente Protocolo en los idiomas ingles i castellano, i selládolo con sus sellos.

Hecho en doble ejemplar, en la ciudad de Santiago, a I°. de Diciembre de 1909.

Seth Low Pierrepont. (Seal.)
Agustin Edwards. (Seal.)

8.

ETATS-UNIS D'AMÉRIQUE, CHILI.

Sentence de Sa Majesté le Roi du Royaume-Uni de Grande-Bretagne et d'Irlande agissant comme amiable compositeur des différends sur les „Alsop Claims"; rendue le 5 juillet 1911.

Parliamentary Papers. Chile No. 1 (1911). — Cd. 5739.

Award pronounced by His Majesty King George V as „Amiable Compositeur" between the United States of America and the Republic of Chile in the matter of the Alsop Claim.

Whereas by a Protocol dated the 1st day of December, 1909,*) the Government of the United States of America and the Government of the Republic of Chile resolved that, as they had not been able to agree as to the amount equitably due to the claimants in the Alsop case, they would submit the whole controversy to His late Majesty King Edward VII as an „amiable compositeur" to determine the amount equitably due to the said claimants; and

Whereas on account of his untimely death His late Majesty was not able to carry out the duty which he had undertaken; and

Whereas at the request of the two Governments We agreed to act in place of His late Majesty; and

Whereas We determined to designate a Commission to study the papers submitted to Us on either side, and submit a Report to Us for Our consideration as to the amount equitably due to the said claimants; and

Whereas We appointed for that purpose:

Our right trusty and right well-beloved cousin Hamilton John Agmondesham, Earl of Desart, K.C.B., a Member of the Permanent Court of Arbitration;

Our right trusty and well-beloved William Snowdon, Baron Robson, G.C.M.G., a Lord of Appeal in Ordinary, and a Member of Our Most Honourable Privy Council; and

Our trusty and well-beloved Cecil James Barrington Hurst, C.B., of the Middle Temple, Barrister-at-Law, Assistant Legal Adviser to Our Principal Secretary of State for Foreign Affairs; and

Whereas the said Commission have submitted unto Us for Our consideration the following Report:

May it please Your Majesty:

On the 1st December, 1909, the Government of the United States of America and the Government of the Republic of Chile entered into the

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*) V. ci-dessus No. 7.

following Protocol submitting to His late Majesty what is known as the Alsop claim against the Republic of Chile:

[Protocol]*)

Your Majesty has been pleased at the request of the parties to the reference to consent to act as arbitrator in place of His late Majesty. The duty which Your Majesty has been pleased to undertake is one of pronouncing an award which shall do substantial justice between the Parties without attaching too great an importance to the technical points which may be raised on either side. This is what we conceive to be the function of an „amiable compositeur".

In accordance with the terms of the Protocol, Cases have been submitted to Your Majesty by both the above-named Governments. These Cases are very voluminous and elaborate, and the United States Government annexes three volumes of Appendices.

The arguments put forward are, in relation to some matters, of a very technical character, and in relation to all matters are elaborated at great length.

The United States Case runs into 352 pages, their Counter-Case into 198 pages, and there are, as stated above, three volumes of Appendices.

The Chilean Case is of 54 folio pages, the Counter-Case of 335 folio pages, but, the material documents being quoted over and over again in the Cases and Counter-Cases, only a short Appendix of documents is annexed.

Your Majesty has been pleased to do us the honour of directing us to give our consideration to the whole matter, and to report to Your Majesty thereon.

It was necessary for us for this purpose to consider and weigh the arguments set out in these books, and this occupied a considerable time, but we are glad to be able to state that in our judgment the issues raised and our conclusions can be set out for the consideration of Your Majesty in a comparatively small compass.

The firm of Alsop and Co. was registered in Chile, its seat of business being in Valparaiso, but it was composed of American citizens. The claim arises out of an agreement made with the Government of Bolivia so long ago as the year 1876.

In that year the firm was in liquidation, and through its liquidator, a Mr. Wheelwright, entered into arrangements with the Government of Bolivia for the settlement of a debt arising out of previous transactions between that Government and one Pedro Lopez Gama, a Brazilian citizen, which debt had been assigned to Alsop and Co.

These arrangements were set out in the form of a contract between the Bolivian Government and Wheelwright, called herein, for convenience of reference, the Wheelwright contract, and it is in respect of the unfulfilled

*) V. le texte du Protocole ci-dessus p. 23.

obligations of Bolivia under that contract, which obligations are alleged by the United States Government both to have fallen upon, and to have been specifically undertaken by, the Government of Chile, that the claim arises which has been submitted for the decision of Your Majesty.

The amount of the claim put forward by the United States Government on behalf of Alsop and Co. is for the sum of 2,803,370 dol. 36 c.

The Chilean Government admit that they have assumed Bolivia's liability under the Wheelwright contract to a limited extent by a treaty entered into between the two States in 1904, and have offered the payment of a certain sum in respect of the claim. This sum has been refused by the United States Government as being insufficient to satisfy either the just claim of Alsop and Co. on Bolivia or Chile, or the liability which Chile has herself undertaken on behalf of Bolivia.

The claim has now been the subject of discussion and controversy between the Governments of the United States and of Chile for more than twenty-five years, and the failure to arrive at any conclusion acceptable to both Governments has induced them to invite Your Majesty to pronounce an award which both parties have undertaken to accept as final and binding upon the two Governments.

It has already been stated that the object of the Wheelwright contract was to provide for the payment of a debt from the Government of Bolivia to Alsop and Co. as the assignees of Gama, who had been involved in various transactions of a complicated nature with the Government of Bolivia, resulting in that Government's admission that there was due a capital sum of 835,000 bolivianos and certain arrears of interest thereon.

The contract itself states that it is „for the consolidation and amortisation of the credits which he (Wheelwright) has pending against the State."

It is important to notice that, though the Wheelwright contract was made with the Government of Bolivia, it is against the Government of Chile that the Alsop claim is now put forward by the Government of the United States.

Bolivia admitted by this contract that she was then indebted to Alsop and Co. in the sum of 835,000 bolivianos, and agreed that the debt was to carry interest at the rate of 5 per cent. per annum, not compoundable. The contract provided for the liquidation of this debt by giving Wheelwright the right to the sums by which the Bolivian share of certain customs receipts might exceed 405,000 bolivianos annually, and also by giving him the right to work the Government silver mines in the coast department of Bolivia for a term of twenty-five years upon the terms that the Government share of the proceeds of the mines should be retained by him and applied in reduction of the debt.

At the time of this contract these customs dues were collected in Peruvian territory, at the port of Arica, which was the natural port of access to a large part of the territory of Bolivia, and an arrangement was in force between the two Republics under which the customs duties levied

at the port were divided between them, and no further duties were levied at the Bolivian frontier on goods going to that country. Under this arrangement Bolivia took a fixed annual sum of 405,000 bolivianos as her share, the balance, whatever its amount, going to Peru. Bolivia was, however, dissatisfied with the arrangement, and had given notice to terminate it; she hoped that under any new agreement her income from this source would be increased, and it was this anticipated increase which she agreed to apply towards the liquidation of the Alsop claim.

The origin of the Government silver mines, of which the proceeds were to be applied to the same purpose was as follows: Under the Bolivian mining law the discoverer of a mine was entitled to two, sometimes three, „estacas," or plots, of a certain size, which were first marked off along the reef or lode. Another „estaca" of 60 by 30 metres was then marked off, and was Government property. The right to work these small mines was given to the firm of Alsop and Co., upon the terms that 60 per cent. of the net proceeds were to go to the firm as a reward for its labours, and 40 per cent. was to be regarded as the share of the Government, but was to be retained by the firm and applied in liquidation of the debt.

Early in the year 1879, less than three years after the making of the Wheelwright contract, war broke out between Chile and Bolivia, and the coast province of Bolivia rapidly passed into the military occupation of the former republic. Shortly afterwards Peru also became engaged in the conflict, and by June, 1880, the port of Arica had passed into the possession of the Chilean Government.

The result of the war, therefore, was, that both the sources to which Alsop and Co. were entitled to look for the money which would pay their debt had passed out of the control of Bolivia into the possession of Chile, and in Chile's possession they still remain. Her military occupation of the coast province of Bolivia was rendered permanent by the Pact of Indefinite Truce of 1884 between Bolivia and Chile, and this military occupation was definitely converted into sovereignty by the Treaty of Peace of 1904. Subject to a future plébiscite, Arica was transferred from Peru to Chile by the Treaty of Ancon, 1883.

The debt admitted by Bolivia in 1876 as due to Alsop and Co. has never been paid, and though it is not alleged by the United States of America that the conquest of Arica, and of the coast province, would of itself affect the indebtedness of Bolivia, or transfer the liability to Chile, it is contended by them that, on other grounds, the firm of Alsop and Co. are now entitled to recover the amount of their claim from Chile.

These grounds are, (1) that Chile appropriated to her own use the proceeds of the customs house at Arica, thereby preventing any money coming to Bolivia which Alsop and Co. might claim under the Wheelwright contract to be applicable to the repayment of the debt; (2) that Chile prevented Alsop and Co. from working the Government silver mines in the coast province in the way they were entitled to work them by applying Chilean law in the province from the date of the military occu-

pation, and thereby subjecting Alsop and Co. to more onerous terms than would have been the case under Bolivian law; and (3) that from time to time Chile undertook to pay the claim.

The Government of the United States of America began to put forward the claim of Alsop and Co. as a good claim against the Government of Chile from a comparatively early date, though it is only recently that the claim has assumed its present shape and magnitude. The United States, however, so far as concerns the original debt admitted in 1876 by the Government of Bolivia (viz., 835,000 bolivianos carrying interest at 5 per cent.), also allege that Bolivia is still the debtor.

The Republic of Bolivia is not a party to the submission of the matter to Your Majesty, and cannot be bound by the result, but her standpoint is that her liability has been entirely transferred to Chile as a result of her loss of the coast province, and of the arrangements concluded between her and Chile.

Chile, on the other hand, repudiates liability for the claim altogether so far as the claim is based on her appropriation of the Arica Customs, or on the application of Chilean law to the province she had conquered; and so far as the claim against her is based upon her undertakings to pay, she maintains that it is a matter in which she is only liable to the extent of the provision made in the treaty between her and Bolivia, and that, to that extent, she is and always has been ready and willing to pay Alsop and Co., but that the amount offered has been refused.

Before passing to a detailed examination of the claim it is desirable to state that in 1890 a Claims Commission was appointed to deal with the various outstanding claims between Chile and the United States of America, but the Commission was unable to deal with the Alsop claim within the time at its disposal. This Commission was revived in 1894, and the Alsop claim was again brought before it, but was disallowed on the ground that Alsop and Co. had no *locus standi*, not being included within the term „corporations, companies, or private individuals, citizens of the United States", as the firm had been organised as a partnership under Chilean law, and had thereby become a juridical entity possessing Chilean nationality. The labours of the Commission therefore failed to bring about a settlement of the dispute, and it now comes before Your Majesty to determine the amount, if any, which is equitably due to the claimants, the representatives of the former partners of the firm of Alsop and Co., now in liquidation, all of whom are alleged to be citizens of the United States.

The Chilean Government, in the Case presented to Your Majesty, again suggest that, as the firm was registered in Chile, and is a Chilean Company, their grievances cannot properly be the subject of a diplomatic claim, and that the claimants should be referred to the Chilean Courts for the establishment of any rights they may possess.

We hardly think that this contention is seriously put forward as precluding Your Majesty from dealing with the merits of the case. It

would be inconsistant with the terms of the reference to Your Majesty, and would practically exclude the possibility of any real decision on the equities of the claim put forward.

The remedy suggested would probably be illusory, and, so far from removing friction, an award in this sense, transferring the real decision from an impartial Arbitrator with full powers to the Courts of the country concerned, which in all probability have no sufficient power to deal equitably with the claim, could afford no effective solution of the points at issue or do otherwise than increase the friction which has already arisen between the two States.

We are clearly of opinion, looking to the terms of reference and to all the circumstances of the case, that such a contention, if entended to be seriously put forward by Chile, should be rejected. We think that it may be disregarded by Your Majesty.

We pass now to a more detailed examination of the claim.

The Wheelwright contract was entered into by the parties with the intention of placing upon a permanent basis the large claims which Alsop and Co. then had against Bolivia.

The claims originated in transactions between a Brazilian citizen of the name of Pedro López Gama who had advanced money to the Bolivian Government in connection with the exploitation of guano and the working of mines. Gama was financed by the house of Alsop, but he became involved in financial difficulties, and in 1875 he assigned the whole of his interests in his concessions and the whole of his claims against the Republic to the firm.

The finances of Bolivia were, as it is stated, at that time in a very bad condition, and it was of the first importance to the liquidator of Alsop and Co. to come to some definite arrangement with the Republic and to obtain, if possible, payment of, or security for, the sums which she owed. Such an arrangement was effected in 1876 by the Wheelwright contract, which fixed the amount of the State's liability to the firm of Alsop at 835,000 bolivianos, and provided two sources to which the firm might look with some degree of hope for the payment of the debt.

It is not, in our opinion, incumbent upon Your Majesty to go behind this contract of 1876 or to deal in any way with the transactions which preceded it.

It is contended by the Government of Chile that the transactions between Gama and Bolivia were of so speculative a character, and that the cash advances which Bolivia had received from Gama were so small in amount, that, in determining the amount of the Chilean liability, if any, in connection with the claim, it would be reasonable to disregard the Wheelwright contract as a settlement between the parties. Apart from the fact that the statements on this point are not conclusive, we cannot advise Your Majesty to adopt this view. The Government of Bolivia definitely admitted in the contract that they owed a particular sum to

Alsop and Co., and agreed that this sum should carry interest at a specified rate. No sufficient grounds are shown for holding that Chile, any more than Bolivia herself, is entitled to say that at the time of the contract Bolivia really owed Alsop and Co. a smaller sum than she herself admitted.

The important articles of the contract are as follows:

„In view of a proposition made by Mr. John Wheelwright, a member and representative of the firm of Alsop and Co., of Valparaiso, in liquidation, for the purpose of providing for the consolidation and payment of its claims against the Government by an assignment of the rights which were acknowledged in favour of Pedro López Gama, a new compromise has been concluded in a Cabinet meeting with Mr. Wheelwright which finally terminates this matter. It is drawn up in the following terms:

„First. The sum of 835,000 bolivianos is acknowledged as due the aforesaid representative of the firm of Alsop and Co., together with interest at the rate of 5 per cent. per annum, not addable to the principal, and to be reckoned from the date on which this contract is duly executed.

„Second. The said principal and interest shall be amortised by means of drafts, all of which are to be drawn in quarterly instalments on the surplus which, from the date on which the present customs contract with Peru terminates, shall arise from the quota due Bolivia in the collection of duties in the Northern Custom-house, over and above the 405,000 bolivianos which the Peruvian Government now pays—whether the customs treaty with that republic is renewed or whether the National Custom-house is re-established.

„Third. All of the silver mines of the Government in the department along the coast are hereby devoted to payment of the said amortisation, for which purpose 40 per cent. of the net profit shall be utilised, except in the mine known as ‚Flor del Desierto‘, concerning which provision is made in the ensuing article . . . .“

Special arrangements with regard to the „Flor del Desierto“ were made because under Article 4 of the contract Bolivia admitted that, in addition to the sum of 835,000 bolivianos referred to above, she was in arrears with the interest to the extent of 170,700 bolivianos, and under the same article Alsop and Co. received in settlement of this sum for arrears of interest the right to work two mines, of which one was the „Flor del Desierto“, and the other was to be agreed between the parties. If these two mines produced more than enough to pay this interest claim, the surplus was to go in reduction of the principal debt; but, if they failed to do so, the loss was to fall on the firm.

The second mine was selected; both were worked, and they failed to produce sufficient available profits to pay the claim for arrears of interest. Under the terms of this Article, therefore, the liability for arrears of interest fell to the ground, and no question with regard to it arises in the present arbitration.

Arica Customs.

The first of the two sources to which, under the Wheelwright contract, Messrs. Alsop were to look for the payment of their debt was the income which Bolivia might draw from the Northern Custom-house in excess of the sum of 405,000 bolivianos.

The Northern Custom-house was situated at Arica, a port at that time in Peruvian territory. There was, however, only a narrow belt between Arica and Bolivia, and it formed the natural port of access to the sea for a considerable portion of the territory of Bolivia. On the 23rd July, 1870, an arrangement had been made between Bolivia and Peru under which Peru was to levy, in accordance with the Peruvian tariff, all the customs dues on goods imported at the port of Arica, whether they were intended for Peru or for Bolivia, and out of the proceeds was to pay a fixed annual sum of 405,000 bolivianos to Bolivia, keeping the whole of the remainder for her own use. This arrangement had been concluded for a term of five years certain, and was thereafter terminable by eighteen months' notice on either side. Notice to terminate had been given by Bolivia on the 5th October, 1876, and in the ordinary course would have taken effect on the 5th April, 1878.

At the time of the Wheelwright contract Bolivia presumably anticipated that before long she would receive a larger income from this source, and, though she was not in a financial position to suffer any diminution of her existing income, she was willing to apply the anticipated increase, whatever it might be, to the payment of this debt.

No further agreement was, in fact, come to between Peru and Bolivia until October 1878, and by mutual arrangement the agreement of 1870 continued in force until May 1879.

Under the new agreement concluded on the 26th October, 1878, goods for Bolivia were to pay import dues at Arica in accordance with the Bolivian tariff, and the proceeds of such dues were to belong to Bolivia, but in return for the use of her custom-houses, ports, and public works, Peru was to levy for her own use on such goods a duty of 4 per cent. (subsequently raised to 5 per cent.).

In June 1880, after the treaty of 1878 had only been in operation for about a year, the port of Arica was occupied by the Chilean troops, war having been declared by Chile against Peru in the meantime.

From the moment when Chile as a military invader occupied the port of Arica the arrangement in force between Bolivia and Peru was necessarily superseded; such import dues as were levied were levied by Chile by virtue of her military occupation and because the goods were being introduced into what was, for the time being, Chilean territory. A further result was that Bolivia became entitled to set up a custom-house on her own frontier and there levy a duty upon such goods as should be imported into her territory, even though they had already paid duty to Chile at Arica, but the papers do not disclose whether any attempt was made by her to do so.

The result was that from the time of the Chilean occupation of Arica until an arrangement was come to between Chile and Bolivia, the import dues levied at Arica were levied by Chile and appropriated to her own use as being import dues paid on goods introduced into territory of which she was in possession.

This state of things continued until the 29th November, 1884, when the ratifications were exchanged of the Pact of Indefinite Truce between Chile and Bolivia. Under this treaty the system of levying at Arica the customs dues on imported goods intended for Bolivia was revived. By Article 6, as interpreted by the additional protocol of the 8th April, the total receipts of the Arica Custom-house were divided as follows: — 25 per cent. were allotted to Chile for her own use, 35 per cent. were allotted to Bolivia for her own use, the remaining 40 per cent. were considered to belong to Bolivia, but were to be retained by Chile until certain claims by Chile for losses suffered by Chilean citizens at the hands of Bolivia during the war were satisfied.

The United States maintain that Chile had no right to the customs dues she levied at Arica between the date when her military occupation of the port commenced and the Pact of Indefinite Truce or to the share which she received under that Truce.

It is contended that the effect of the Wheelwright contract was to hypothecate in favour of Alsop and Co., or even actually to assign to Alsop and Co., after the manner of an equitable assignment of book debts, all the receipts of the Arica Custom-house to which Bolivia could lay claim, except the 405,000 bolivianos which she had been accustomed to receive annually under the former arrangement.

They further contend that such assignment or hypothecation of customs was a transaction which could not be set aside, and constituted an arrangement which Chile was bound to respect; in support of this theory reference is made to the well-known case of the Silesian loan, and to others where specified customs receipts have been set aside in favour of a particular group of creditors. It is therefore contended that as and when Chile received these customs receipts they formed in her hands money which was had and received to the use of Alsop and Co., and which she was bound to pay to Wheelwright until the debt to the firm had been paid off.

In their Case the United States of America give a table of the customs receipts at Arica from the time of the Chilean occupation up till 1884, and contend that the whole of these sums except 5 per cent. would have gone to Bolivia under the 1878 agreement with Peru, and were therefore subject to the assignment to Alsop and Co., and that, if Alsop and Co. had received them, the whole of their debt would have been paid off by the end of 1882.

They further contend that the value of the original debt with interest should be calculated in gold at the date when it would have been paid off under the above calculation, and that from that time it became a debt payable in gold and bearing interest at 6 per cent., the legal rate in

Chile, instead of a debt payable in bolivianos, and bearing interest at 5 per cent. as stipulated in the Wheelwright contract.

The net result is a claim under this head of 2,337,384 dol. 28 c.

In view of these contentions it becomes necessary to analyse the situation created by Article 2 of the Wheelwright contract and by the Chilean military occupation of Arica with some care.

At the time of the contract Arica was a Peruvian port, and consequently Bolivia could have no interest in customs dues levied there except by virtue of some arrangement subsisting between herself and the sovereign of Arica.

Under no possible circumstances could an agreement between Bolivia and a private individual affect anything more than the remittances she might from time to time receive from the sovereign authority of Arica under the arrangement subsisting between them. Such a contract as that of 1876 between Wheelwright and Bolivia necessarily presupposes, so far as it affects Arica and the customs dues levied there, the existence of an agreement in force and operative between Bolivia and the sovereign of Arica. The effect of the Chilean occupation of Arica was to put it out of the power of Peru to carry out the agreement of 1878; consequently Bolivia's right to any share in the customs collected at Arica determined from that moment and continued in suspense until such time as that or some new agreement was again in operation between herself and the power in possession of Arica.

In the light of these considerations it is desirable to consider closely the wording of Article 2 of the Wheelwright contract; it will be noticed that it makes no mention whatever of Arica; all it says is that the indebtedness to Alsop is to be amortised by drafts on the surplus of the quota due Bolivia in the collection of duties *in the Northern Custom-house* over and above the 405,000 bolivianos whether the customs treaty with Peru is renewed or *whether the National Custom-house is re-established*. It is in fact no more than an undertaking by Bolivia that *her receipts* from a specified part of the customs dues shall be applied to the Alsop debt whether those customs dues are levied at Arica or elsewhere.

Such an undertaking does not amount to an hypothecation of the Arica customs, the Arica customs could not be hypothecated or assigned except by the sovereign of Arica, and Bolivia was not in 1876, nor at any subsequent time has she been, the sovereign of Arica.

The precedents, such as the case of the Silesian loan and others, to which the attention of Your Majesty is directed, have therefore no bearing on this case at all, as they were all instances where arrangements had been made or were in contemplation with reference to the disposition of customs receipts by the sovereign who was entitled to levy them.

The Wheelwright contract was not binding on Peru, the then sovereign of Arica, as she was not a party to it; still less was it binding on Chile, who by right of military occupation ousted Peru from Arica in 1880. In short, the conditions which were the basis of this part of the

agreement had ceased to exist. As a prospective source of payment it had disappeared, and it was for the debtor to find some other source of payment or some security.

There remains a further question whether the arrangements embodied in the Pact of Indefinite Truce of 1884 between Chile and Bolivia constituted violation of the rights of Alsop and Co., and afford any just ground for complaint against the former Republic.

Under the Pact, Chile was to receive 25 per cent. of the proceeds of the customs receipts on Bolivian goods at Arica, and was to retain a further 40 per cent. in payment of certain Chilean claims, and Bolivia received 35 per cent. for her own use. In 1876, the date of the Wheelwright contract, Bolivia was receiving nothing from the Arica customs beyond the 405,000 bolivianos which she was to retain; she undertook under that contract no obligation, either to vary the arrangement then in force and ensure to herself an increased income, or to set up her own custom-houses; nor was she debarred from making an altogether different arrangement under which she might never receive more than the 405,000 bolivianos; all she undertook that Alsop and Co. should have was the surplus she hoped to receive above the 405,000 bolivianos as and when she did receive it.

It follows from this that the 1884 Pact constituted no breach of duty on the part of Bolivia towards the firm of Alsop and Co., still less was it an infringement of the rights of the firm on the part of Chile. It is however noteworthy that in the year 1885, when Bolivia's 35 per cent. yielded a sum which substantially exceeded the 405,000 bolivianos which she was entitled to retain, Alsop and Co. appear to have made no attempt to secure the surplus in reduction of their debt.

The result is that with regard to this part of the case we can only report to Your Majesty that the Wheelwright contract effected no assignment or hypothecation of the Arica customs, that the arrangement embodied in Article 2 of that contract was not binding on Chile, that Chile in appropriating the proceeds of the Arica customs, either before or after the Pact of Indefinite Truce in 1884, did not receive the money to the use of Alsop and Co., and that the claim under this head for 2,337,384 dol. 28 c. payable in gold is not sustainable.

The Government Silver Mines.

The second source to which Alsop and Co. were to look for the repayment of their debt was the right given them by Article 3 of the Wheelwright Contract to exploit the Government silver mines in the coast department.

„Third. All of the silver mines of the Government in the department along the coast are hereby devoted to the payment of the said amortisation, for which purpose 40 per cent. of the net profit shall be utilised . . ."

The terms on which these mines were to be worked were set out in a subsidiary document, which formed part of the contract. Among the articles which it contained were the following:

„1. Mr. John Wheelwright shall have a period of three years within which to examine the Government silver mines, and find the necessary capital with which to put them in operation, it being his duty to take the necessary preliminary measures to this end as soon as possible. The mines shall remain at the disposal of the concessionary during these three years, and the Government shall enable him to gain actual possession thereof by giving the proper instructions to the authorities. . . .

„4. The concessionary . . . . shall present semi-annual balances, on the strength of which, together with the records of the books, the distribution shall be made of the net proceeds, 40 per cent. being applied by the Government to the paying off of the debt according to the terms agreed upon in the compromise of this date, and 60 per cent. going to the petitioners.

„5. The Government shall appoint one or more agents to superintend the work performed, who shall be compensated out of the common funds of the enterprise.

„6. This contract shall last for twenty-five years, after which time, if there is any residue after paying off the Government debt in accordance with the compromise, it shall be turned over to the Government.

„7. If within the first three years or thereafter until the expiration of the twenty-five years mentioned in the foregoing Article, any persons or companies should offer to operate one or more of the mines included in this contract, they may do so provided the present concessionary does not care to undertake the operation thereof, and so states in writing to the Government, or else deliberately neglects to make such statement."

It has already been stated that these Government „estacas" were plots measuring 60 by 30 metres which were marked off on the lode or reef of a mine after those which belonged under the Bolivian law to the discoverer of the mine.

Under the Bolivian decree of the 23rd July, 1852, these „estacas" were applied to the Treasury of Public Instruction, but under subsequent legislation the Government was authorised to enter into contracts for the working of the mines for the benefit of the State, and it was under this power that the Government acted when it entered into the Wheelwright contract in 1876.

The parties are not agreed as to the exact nature of the rights which the Wheelwright contract conferred on Alsop and Co. in respect of the Government mines. The United States of America contend that it amounts to an absolute lease of the mines for a period of twenty-five years, creating a vested right in the firm to the possession of the mines, which the Government of Chile were bound to treat as the property of Alsop and Co.

On the other hand, the Chilean Government contend that the contract amounted to no more than a contract of „anticresis", which is defined in

the Chilean code as a contract whereby there is delivered to the creditor a real property in order that he may pay himself out of the proceeds (Code, article 2435). They state that the question of the extent of the rights created by the contract was the subject of litigation in the Chilean courts in the case of the mine „Amonita", that the courts held that the rights so created amounted to a contract of „anticresis", and contend that in a matter relating to real property, the decision of the national courts must be final.

The point is only of importance in connection with the question whether the rights of the firm in these various Government mines were rights which could be described as „property" in such sense that Chile was bound, under the modern practice of nations, to respect them as the private property of an individual when by force of arms she acquired possession of the province in which the mines were situated. It is not easy to define the exact nature of the rights which the contract gave to the firm. We can only report to Your Majesty that their nature seems to us to be more accurately described as an „option". The liquidator was entitled, as against the Bolivian Government, to be put into possession of any of the Government „estacas" which he desired to occupy. That the rights of the firm under the contract were no more than an option is, we think, made clearer by Article 7 of the document quoted above, under which any person who desired to work one of the Government „estacas" was to be allowed to do so, if the firm did not care to undertake its operation, and either informed the Government to that effect or neglected to answer. The permit giving the right would have been issued under this article by the Government, and not by Wheelwright.

As soon as the contract of 1876 had been made, Wheelwright turned his attention to these mines to see what could be made out of them. The result was not reassuring. His agent admits that he had to contend with a thousand difficulties. People had unlawfully taken possession of the mines; boundary marks had been moved; the documents of title were lost; local authorities were half-hearted, and, in short, up till the time of the Chilean war but little had been accomplished. Furthermore, the mining industry of the district was heavily handicapped by the scarcity of cheap transport and the high freights. Judging from the half-year's reports furnished by Wheelwright to the Bolivian Government during 1877 and 1878, there can be little doubt but that the exploitation of the mines had been carried on at a loss up till the outbreak of the war.

The actual effect of the Chilean occupation of the province on the mining operations of the firm of Alsop is not very clear; but the Chilean Government states, and so far as can be gathered, correctly states, that Wheelwright was left in possession of all the mines of which he had been able to obtain the control. His position, however, was very materially affected in respect of mines of which he had not been able, up till then, to obtain possession. The obligation of the Bolivian Government to assist him to obtain possession of any particular mine was one they were no

longer able to carry out, and the rights of the Bolivian Government to these „estacas“ were rights upon which Wheelwright could no longer base his claims to the possession of the mines.

Two decisions in the Chilean courts demonstrated the change which the Chilean occupation had effected. The first was the decision in the case of the mine „Justicia“, in an action brought by Wheelwright to recover an „estaca“ which had been erroneously included in other mines. Wheelwright claimed that the owners of these latter mines were bound to put him in possession of the „estaca.“ The court of second instance, on appeal, decided against him on the ground that Wheelwright's contract was, with regard to the mines, one of „anticresis“; that the particular „estaca“ to which the suit related had not existed in fact during the Bolivian dominion, and could not now be created; that with regard to it the 1876 contract had not been actually carried into effect by the handing over of the real property, and that his claim therefore failed.

The second decision was one which related to the mine „Amonita“, where the action was brought against an occupier in possession, and a declaration was asked for that the mine belonged to the Bolivian State, whose rights Wheelwright represented. The court admitted that the „Amonita“ was a Government „estaca,“ but decided that the Government „estacas“ were among the Bolivian Government possessions which had passed to Chile; consequently, as Wheelwright's right to the mine was not a real right, but only a right of „anticresis“, and as he had not obtained possession, his title was not one which a conqueror was called upon to respect, nor did it prevail against a private person who was in possession. Against this decision no attempt was made to appeal.

The effect of these two decisions must have been to deprive Wheelwright of the means of obtaining possession of „estacas“ in the occupation of persons with an adverse title. They probably also rendered it necessary for him to work the mines of which he had obtained possession in order to prevent any third party gaining a good title. They did not, however, deprive Wheelwright of the possession of any mines of which he was in occupation.

The deductions which the Government of the United States draw from these decisions are very far-reaching. They contend that the decision deprived Alsop and Co. of private rights which they held under the Wheelwright contract, and constituted a violation of the modern principle of international law that a conqueror must respect private rights. Upon them is therefore based a claim on behalf of Alsop and Co. to a sum of 508,538 dol. 14 c., made up as follows: 333,823 dol. 91 c. represents the profits which the concessionnaires calculate they would have obtained from certain profit-bearing „estacas“ of which they ought to have been enabled to obtain possession; 61,013 dol. 43 c. represents sums expended in working mines to prevent their being denounced by others; 48,340 dol. 91 c. represents expenses of litigation rendered necessary by these decisions; and 65,359 dol. 89 c. represents expenses of increased working

staff rendered necessary in the same way. In all cases these sums include interest calculated up till the signing of the Protocol of Submission in 1909.

The essence of the United States contention is that the rights of Alsop and Co. to these mines under the Wheelwright contract, whether the firm were in possession of the „estacas" or not, were landed property rights, and that Chile was bound to protect such rights, either by applying Bolivian law to the interpretation of the contract, or even by enacting laws for the purpose if her own laws were insufficient, and that, as the „Amonita" and „Justicia" decisions did not protect the rights of Alsop and Co. in the „estacas", these decisions constituted violations of international law for which Chile is liable in damages. No suggestion is made that the decisions were corrupt, and with regard to one of them it has been stated that there was no appeal.

These contentions do not appear to us to be well founded. The right which Alsop and Co. possessed under the Wheelwright contract to work a particular „estaca" was merely a contractual right against Bolivia; until they had secured possession of the „estaca" they had nothing which could fairly be described as „property".

The outbreak of the war and the occupation of the province by Chile deprived Bolivia of these Government „estacas". It also put it out of her power to carry out her obligation under the Wheelwright contract to facilitate the acquisition of the „estacas" by Alsop and Co., but though the „estacas" passed to Chile she did not thereby become bound by Bolivia's contract to put Alsop and Co. into possession; she was under no obligation to facilitate the transfer of the „estacas" to Alsop and Co. in order that they might use them to obtain money for the payment of a debt owing by Bolivia.

Where the rights of Alsop and Co. to a particular „estaca" had been converted into „property" by the firm obtaining possession, their rights were not affected by the „Amonita" and the „Justicia" decisions, except that it might become necessary to work the mine, which, if it were worth working, would have been no injury. Where no possession of a particular „estaca" had been obtained, the firm had merely a contractual right, which the war put an end to so far as regards Bolivia, and which was not valid against Chile.

The decisions of the Chilean Courts, therefore, in the cases of the „Justicia" and the „Amonita" do not, in our opinion, afford any real ground for the contention put forward by the United States.

This matter may be regarded from another point of view. Your Majesty is acting as „amiable compositeur", and is free to look at the essence of things without too strict a regard to technicalities, and from that point of view, also, it appears to us that the claim put forward on this head is not one which should be approved by Your Majesty.

It is to be observed that in respect of the mines of which Wheelwright had obtained possession and which he had worked, the general

result, though one or two mines might have been remunerative, was not favourable to him, and with regard to the „estacas", of which he had not obtained possession before the Chilean occupation, it can hardly be assumed for the purpose of assessing damages, that, even if the imposition of Chilean law denied him the right of entering into possession of other mines which he might possibly have obtained under Bolivian law, the result would have been profitable to him.

Further, it is fairly clear from the facts that whatever might have been the theoretic strength of his position under Bolivian law, he had not in fact been able under that law and administration to obtain possession of the mines which he alleged to be Government „estacas" which were in the occupation of other persons. His complaints to the Bolivian Government on this head show that in fact he was no better off under the Bolivian administration than he was under the Chilean, and there is really nothing to indicate even a probability that he would have obtained possession of these „estacas", if Bolivia had continued in occupation of the territory in which they were situated. So far as it goes the evidence is all the other way.

Chilean law and Chilean administration left him in possession of the mines he had occupied. They did not help him to oust others who were in possession of mines he had not occupied, and which were being worked by other people, and of which under Bolivian law and Bolivian administration he had not been able up till then to obtain possession.

Further, if Your Majesty should be pleased to adopt the recommendation we shall venture to make, at a later stage of this report, the principal object of the concession will be satisfied, which was to provide for the repayment of the debt of 835,000 bolivianos and interest. If this obligation be met, we do not think that Wheelwright can substantiate any equitable claim for damages in respect of possible profits he might have made for himself if he had been able to get possession of more of the „estacas". There is really nothing to indicate that such profits would have arisen.

The only plausible ground from his point of view on which to claim damages is that he spent money to prevent strangers acquiring a title by adverse possession, which would not have been necessary if Bolivian law had been applied in the construction of the contract.

If, however, the mines could be made profitable, this involved no hardship and no ultimate loss, and if they were worthless, there was no occasion for him to spend the money, while the requirement itself is reasonable, and may be justified as being in the public interest. The claim to retain possession of an „estaca" indefinitely without developing or working it is one of a very objectionable character, and is not, we think, in accordance with the spirit of the contract itself.

We do not think that, either technically or on grounds of equity, the claimants are entitled to damages under this head, and we can only report to Your Majesty that, in our opinion, the claims put forward by

the United States based upon an alleged wrongful deprivation of the mining rights of the firm of Alsop and Co. should not be admitted.

The third ground upon which the United States contend that Chile should pay the Alsop claim is that she has undertaken to do so. Such undertakings are alleged to have been given both to the United States and to Bolivia.

None of the undertakings given directly to the United States, which are enumerated in their Case, amount to anything in the nature of a contract or agreement to pay the claim. They cannot be regarded as undertakings to pay the claim either in the form in which it is now put forward, or in the form in which it was put forward at the time. There is no need to deal with them in detail; many of them are of the vaguest character, others are mere assurances that the claim will be dealt with in the definitive treaty of peace when one is concluded between Bolivia and Chile; others are only announcements that the claim has been provided for in such a treaty, but come to nothing because the treaty in question was not ratified; others relate to the contemplated treaty, which was completed in 1904, and are merely announcements as to what will happen when that treaty is ratified.

The only one which, as we think, needs express mention is the statement made by the Chilean agent before the Claims Commission which dealt with American and Chilean claims in 1901. The case of Alsop and Co. was brought before that Commission by the United States Government, but the Chilean agent filed a plea to the jurisdiction on the ground that Alsop and Co. was a Chilean firm and that the claim was therefore not within the jurisdiction of the Commission, because the treaty gave the Commission no power to consider claims on the part of Chilean citizens against Chile.

The Commission upheld this view, but in doing so they referred to the following passage in the brief of the Agent for Chile:

„The Chilean Government has always regarded it (the Alsop claim), and does still regard it, as a liability on the part of Bolivia towards the claimant; and in order to induce the Bolivian Government to sign the definite Treaty of Peace which has been negotiated for many years, the Chilean Government offers to meet this and other claims as part of the payment or consideration which it offers to Bolivia for the signature of the Treaty."

The Commission therefore remitted the claimants to the Government of Chile for relief.

There is in the above passage nothing more than an undertaking to pay the Alsop claim *as a claim against Bolivia*, and as part of the consideration for a permanent settlement between the two Governments. This was in effect the attitude of the Chilean Government towards the claim throughout the period which followed the occupation of the coast province of Bolivia. The Chilean Government were aware that the Government of Bolivia could not pay the debt, and they had themselves obtained pos-

session of both the sources to which the claimants were to look, under the Wheelwright contract, for money to pay it off. They were willing, therefore, to take over the liability for that and other claims, as part of the general settlement which they desired with the neighbouring republic.

Offers on the part of Chile to pay the claim as a claim against Bolivia can only be made upon the assumption that Bolivia is still liable for the debt, and the question must first be considered whether anything has happened to terminate Bolivia's liability.

Bolivia has not paid the sum which she admitted in the Wheelwright contract she owed to Alsop and Co., but it is suggested in the Chilean Counter-Case that Bolivia had in effect been discharged from liability under her contract by reason of the absence of any effort on the part of the firm or of the United States of America to obtain payment of the debt from her, and bankruptcy and the principle of the limitation of actions are referred to as affording by analogy arguments of substance in support of this view.

It is undoubtedly true that from the time of the Chilean occupation no real effort was made to secure payment of the debt by Bolivia, or even to treat her as the principal debtor, until 1906. But the explanation is not difficult to find. It is the plain fact that Bolivia was not in a position to pay, and no advantage would have accrued from attempts to make her do so.

The principle of the limitation of actions does not, in our opinion, operate as between States. It is based upon the theory that the party had a right of action capable of being enforced by legal proceedings, neglect of which should in time relieve the debtor from further liability, but as against, or between, sovereign States this rule does not apply, and it would be unreasonable that the creditor's rights should suffer because he realises that his only course is to wait until the financial position of the debtor improves. The liability of Bolivia under the Wheelwright contract remains, in our view, unaffected.

The various undertakings by Chile to Bolivia, upon which the United States of America rely as constituting an obligation upon Chile to pay the claim, are all contained in notes, protocols, or treaties between the two Powers which were intended to constitute or to form part of a general settlement and permanent treaty of peace between them. As to five out of the seven such undertakings specified, it is only necessary to state that they never became binding instruments, and they are therefore immaterial.

A permanent settlement was at last effected by the treaty of the 20th October, 1904. Under Article 5 of that treaty, Chile devoted 2,000,000 pesos in gold of 18 pence to the cancellation of certain specified obligations of Bolivia, among them being „the debt recognised to Don Pedro López Gama, represented by Messrs. Alsop and Co.", successors of the former's rights", and 4,500,000 pesos to certain other claims.

Attached to this treaty were a variety of notes and protocols, of which the following bear upon the Alsop claim: by a protocol, dated the

15th November, 1904, Chile was to be free to „examine into, pass judgment upon, and liquidate said credits," and by notes dated the 17th and 21st November, 1904, it was agreed that as the total of the claims, for the settlement of which 6,500,000 pesos were to be paid under Article 5, amounted to more than 6,500,000 pesos, that sum was to be distributed *pro ratâ* among them.

Two other notes of great importance had been signed on the 21st October. These notes were not published at the time, and were almost certainly intended (at any rate by Chile) to remain secret, but they were published in the Bolivian newspapers in the following February, and, since 1906, have not been treated as secret by Bolivia.

The Bolivian note was as follows:

„The Government of Bolivia agrees with your Excellency's Government on the necessity of determining the purport of the wording of Article 5 of the Treaty of Peace and Friendship signed to day by your Excellency on behalf of the Government of Chile and by the undersigned in representation of the Government of Bolivia.

„Both in regard to the claims of the Corocoro, Huanchaca, and Oruru companies, and of the bondholders of the Bolivian loan of 1867 which were being paid out of 40 per cent. of the receipts of the Arica custom-house, and in regard to the claims against Bolivia of the bondholders of the Mejillones Railroad, of Alsop and Co. (assignees of Pedro López Gama), of the estate of Juan Garday, and of Edward Squire, it has been agreed that the Government of Chile shall permanently cancel all of them, so that Bolivia shall be relieved of all liability, the Government of Chile being obligated to answer every subsequent claim presented either by private means or through diplomatic channels, and considering itself liable for every obligation, bond, or document of the Government of Bolivia relating to any of the claims enumerated. Bolivia's liability being entirely eliminated for all time, and the Government of Chile assuming all liabilities to their full extent.

„My Government desires that your Excellency may be pleased to state to me, on behalf of the Government of Chile, whether this is the purport which it has given to Article 5 of the Treaty of Peace and Friendship signed to-day between the representatives of the two Governments.

„I avail, &c. . . . ."

The Chilean reply was as follows:

„In reply to the note which your Excellency addressed to me on this day, I take pleasure, in compliance with your request, in defining the purport which this Chancellery assigns to Clause 5 of the Treaty of Peace and Friendship signed to-day by your Excellency in representation of the Government of Bolivia and by the undersigned on behalf of the Government of Chile.

„My Government considers that the obligation which Chile contracts by Article 5 of the said Treaty comprises that of arranging directly with

the two groups of creditors recognised by Bolivia for the permanent cancellation of each of the claims mentioned in said Article, thus relieving Bolivia of all subsequent liabilities.

„It is consequently understood that Chile, as assignee of all the obligations and rights which might be incumbent on or pertain to Bolivia in connection with these claims, shall answer any reclamation which may be presented to your Excellency's Government by any of the parties interested in the said claims.

„I renew, &c. . . . .“

The contention put forward in the Chilean Case with reference to these notes is that they do not mean that Chile is to take over the whole liability of Bolivia for the capital debt (835,000 bolivianos and interest at 5 per cent.), but are intended to ensure that Bolivia should be relieved finally from any liability under the Wheelwright contract by the payment of the sum provided in Article 5 of the treaty: that their purpose was in fact to ensure that Chile should not pay to any of the claimants their proportion of the 6,500,000 pesos without procuring from the claimant a full discharge so that no further claim could be preferred either against Bolivia or Chile.

The arguments which are adduced in favour of this construction are not convincing. The more natural construction of the wording of the two notes is that they were intended to relieve Bolivia altogether of any further liability under these claims whether the proportionate share of the six and a-half millions was accepted in final settlement or not, and the more closely the surrounding facts are looked into, the more carefully the details of the long diplomatic struggle between Bolivia and Chile are studied, the stronger does this conviction become.

The treaty of 1904, with its accompanying notes, was a contract to which the only parties were Bolivia and Chile, while the claims were claims by strangers; it is obvious that the rights of such strangers could not be prejudiced by any agreement to which they were not parties. In so far as the claim of Alsop and Co. was a valid claim against Bolivia, it could not be extinguished by an agreement between Bolivia and Chile. Chile undoubtedly might (and did) agree to provide a certain sum in payment of the claim; but if that sum was less than the full amount for which the claim was good, the liability for the balance would, unless the claimant was content to waive the balance, remain a burden upon Bolivia.

The fact that Bolivia was poor and Chile was rich would not affect the above argument in the least: it might no doubt have a very potent effect upon the mind of the claimant in considering whether or not to accept the sum offered in full discharge, because an immediate cash payment of a smaller sum might be worth more than a larger liability which was unlikely to be met, but in the absence of acceptance of the sum offered the liability of Bolivia would not and could not be affected.

It is impossible to read through the abortive treaties which were drawn up between Chile and Bolivia without appreciating the reluctance of Bolivia to part with the sovereignty of her coast province and her determination that, if that province was to be lost, she should be freed from any further liability in connection with certain claims which, to use her own expression, „encumbered the littoral". It is clear also from the contemporaneous documents that Bolivia believed that this had been effected by the treaty arrangements of 1904.

If Bolivia's liability to the claimants was to be extinguished, it could only be done by the whole burden of the claim being undertaken by Chile, and this is what appears to be the natural construction and effect of the notes. It is clear from the language that the possibility of the sum not being accepted was contemplated.

The object of Chile in keeping the notes in which this arrangement was embodied secret is obvious. Chile had no desire to pay more than the claims were really worth; if she could ostensibly limit her liability to a particular sum, it might be possible to coerce the claimants into accepting the reduced amount, and the fact that the majority of the claimants referred to in the treaty were Chilean citizens would facilitate her so doing. Were she on the other hand to undertake full liability for the claims in the treaty, it must have been clear to her that she would have to deal with her own citizens upon the same footing as the foreign claimants whose claims were strongly pressed by their own Governments.

The right which Chile claimed under the protocol of the 15th November to deal with each individual claim upon its merits was to ensure that Chile should not be worse off than Bolivia in dealing with these claims. Bolivia would not be bound by the amount which a claimant himself chose to put upon his claim, and under the protocol Chile was to have a like power.

An argument is suggested, but scarcely pressed, in the Chilean Case and Counter-Case, that these notes have no validity because they were not included in the ratification, but neither were the later notes nor the protocol of the 15th November, which admittedly formed part of the treaty arrangement.

It would be very dangerous if states were to be at liberty to repudiate notes exchanged by their respective plenipotentiaries appointed to negotiate a particular treaty when those notes had an intimate relation with the subject matter of the treaty and when the action of the plenipotentiaries had not been disavowed by their Governments as soon as it was known. It would be highly inconvenient if secret notes attached to a treaty were obliged to be included in the ratifications.

It is also alleged that Bolivia's liability under the Wheelwright contract cannot have been transferred to Chile by these notes because that liability had been discharged by the absence during a prolonged period of any attempt on the part of the claimant to make good his claim

against Bolivia. This contention has already been examined and we have stated that we do not consider it to be well founded; but if any such view had been held by the parties at the time, it would render their handling of the Alsop claim in Article 5 of the Treaty inexplicable.

The fair and reasonable construction of the secret notes is that they were intended to ensure that Bolivia should be finally relieved of any liability for the Alsop claim whether the claimants accepted their share of the six and a-half million pesos under Article 5 of the treaty or not.

Another deduction which may be drawn from the wording of these notes, particularly that of the Chilean note, is that the parties intended that Chile should not merely indemnify Bolivia by repaying to her any compensation which Bolivia should pay the claimant, but that Chile should deal directly with the claimants, thus eliminating Bolivia from the transaction altogether. The United States are therefore justified in dealing directly with Chile.

The Bolivian liability which Chile thus assumed can only be the liability which Bolivia recognised under the Wheelwright contract of 1876, *i.e.*, the debt of 835,000 bolivianos carrying interest at 5 per cent. Bolivia could not now be heard to say that she was not liable for the debt which she admitted in 1876, and which she has never paid; nor could she be heard to say that she was liable for the capital and not for the interest; the liability under the 1876 contract is for the capital debt carrying „interest at 5 per cent. not addable to the principal, and to be reckoned from the date on which this contract is duly executed."

In our opinion the payment of the debt with interest is consequently now incumbent upon Chile by virtue of the obligation undertaken by the Treaty of Peace of 1904 as embodied in the Treaty and the supplementary notes and protocol.

The subsequent facts need be touched upon but briefly. In December, 1904, and again in 1907, the Chilean Government offered in settlement of the claim a sum which was the *pro ratâ* share of the 6,500,000 pesos provided in Article 5 of the Treaty of 1904, adding in the latter case a small sum by way of accrued interest, and explaining also that it was the final offer of Chile, and that, if the claimants were unwilling to accept it, they would be invited to turn for payment to Bolivia.

Both these offers were declined, and in 1908 the State Department at Washington asked whether the Chilean Government would furnish information regarding the case as there was nothing in the archives of the Department which would justify the offer of a sum which was actually less than the debt admitted by Bolivia in 1876. No such information was supplied, and in April, 1909, the Chilean Minister in Washington stated that his Government had no such evidence to produce.

No serious effort is made in either the Case or the Counter-Case of the Chilean Government to show that, if any liability to pay the claim

attaches to them, the merits of the claim do not warrant payment in full. It is true that suggestions are put forward that Gama's transactions with the Bolivian Government before 1876 were not such as to justify so large an admission of liability on the part of Bolivia as the debt which was recognised in the Wheelwright contract, but we have already stated that there seems to be no sufficient grounds for going behind that contract. The motives which induced Bolivia to sign it and the question whether it was reasonable for her to do so must be matters of mere speculation. Even if the bargain was a bad one for Bolivia, there can be no doubt but that she did in fact admit liability for the sum there mentioned, and, in the view we take of the proper construction of the secret notes, attached to the treaty of 1904, Chile agreed to relieve Bolivia of that burden.

It is perhaps worth while to point out that the liability which Chile assumed by those notes was not dependent on the merits of the claim. She did not undertake to pay the claim because she considered it a just claim: she agreed to it as part of the price which she was willing to pay for securing the recognition and acceptance by Bolivia of her title to the territory which she had wrested from that Republic by force of arms, and even if she may consider the sum Your Majesty may be pleased to award large, having regard to all the circumstances, it is certainly small as compared with the advantages of a sure title to a valuable territory.

The indebtedness admitted by Bolivia under Article 2 of the Wheelwright contract, which it is now incumbent upon Chile to discharge, was 835,000 bolivianos, with interest, but a question arises whether certain profits from the working of the mines by Alsop and Co. ought not to be deducted from this sum.

The United States admit that profits were obtained from the working of six of the mines, and under Article 3 of the Wheelwright contract it might be contended that 40 per cent. of these profits should be applied in reduction of Bolivia's debt. The amount of profit admitted in the United States Case is 45,095 dol. 22 c.

The great majority of the mines appear to have been worked at a loss, and, so far as can be gathered from the accounts printed in the appendices, if the working of the mines is regarded as a whole, a loss ensued.

The power of the Bolivian Government to give the firm of Alsop and Co. the right to work the Government „estacas“ under the Wheelwright contract was derived from the Bolivian decree of the 2nd November, 1871, which enacted that the working of the mines was to be *in partnership with the State,* the State being considered as an industrial partner, and being under no obligation as such to reimburse losses to the partners.

If the working of each individual mine under Article 3 of the Wheelwright contract is to be regarded as a separate venture, then losses in

respect of any such mine would fall on the firm, while 40 per cent. of the profits made at any such mine would go in reduction of the debt.

If the working of the Government „estacas" is regarded as a whole, then a share of the profits made at any particular mine would not go in reduction of the debt unless the mining venture as a whole was profitable. If, as a whole, the mining venture resulted in loss, the Bolivian Government would not benefit by the profits made at one or two mines.

It is not easy to determine which of these two views is the right one, but it seems to be more reasonable, and more consistent with the intention of the parties, to adopt the latter, and treat the mining venture as a whole.

The accounts of the mining operations of the firm of Alsop and Co. have not been laid before Your Majesty very fully, but the accounts which are printed in the United States Case indicate that those operations, treated as a whole, resulted in a loss, and, if that is so, no part of the profits admitted to have been earned at six of the mines would go in reduction of the debt.

We have considered the question whether we ought to report to Your Majesty that further evidence should be called for under the power reserved to Your Majesty in the Protocol of Submission between the parties. The conclusion at which we have arrived is that it is not incumbent upon Your Majesty to do so.

If Chile desired to diminish the liability which she has undertaken, it was for her to establish that Alsop and Co. made profits out of the mines. Access to the books of the firm has been afforded to her, and she has not availed herself of the offer. In the absence of some proof by her that the firm did make profits out of the mines, we see no reason why Your Majesty should assume it.

The liability admitted by Bolivia was 835,000 bolivianos with interest at 5 per cent. from the date of the execution of the contract, *i.e.*, from the 26th December, 1876, that is practically thirty-four years and six months. The amount of the debt at the present time, therefore, is 835,000 bolivianos for the principal, and 1,440,375 bolivianos for interest.

As the debt admitted by Bolivia was payable in bolivianos the award must be payable in the same currency, or in gold at the current rate of exchange.

We humbly submit to Your Majesty that Your Majesty should be pleased to award that the sum of 2,275,375 bolivianos is equitably due to the representatives of the firm of Alsop and Co.

And whereas, after mature consideration, We are fully persuaded of the wisdom and justice of the said Report;

Now therefore We, George, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India, do hereby

Award and Determine that the sum of two million two hundred and seventy-five thousand three hundred and seventy-five (2,275,375) bolivianos is equitably due to the representatives of the firm of Alsop and Company.

Given in triplicate under Our hand and seal at Our Court of St. James', this fifth day of July, one thousand nine hundred and eleven, in the Second Year of Our Reign.

George R. I.

9.

ITALIE, PÉROU.

Correspondance relative à la réclamation des frères Canevaro; du 15 décembre 1909 au 27 avril 1910.*)

Boletín del Ministerio de Relaciones exteriores. VII, No. 35. Lima 1910.

Reclamación Canevaro.

(Traducción).

Legación de S. M. el Rey de Italia.

No. 907. Lima, 15 de diciembre de 1909.

Señor ministro:

Vuestra excelencia tuvo á bien comunicarme en su nota No. 53, del 13 del mes en curso, que la cámara de diputados desechó el día 9 el protocolo Canevaro por sesenta y un votos contra seis, y que el senado, al que volvió el asunto, resolvió no insitir en su primitiva resolución y aprobó por unanimidad la deliberación de la cámara de diputados, quedando en consecuencia definitivamente desaprobado el protocolo.

El gobierno de S. M., al que he comunicado la nota de V. E., me ha telegrafiado que proponga el arbitraje en este asunto.

En consecuencia, cumpliendo las órdenes impartidas, tengo el honor, en nombre de mi gobierno, de hacer formal propuesta á este gobierno de someter á un juicio arbitral los puntos en discusión de la controversia Canevaro, invocando al efecto el artículo 1º. del tratado general de arbitraje italo-peruano.

Ruégole, señor ministro, aceptar las seguridades de mi más alta y distinguida consideración.

Giulio Bolognesi.

A S. E. el doctor don Melitón F. Porras, ministro de relaciones exteriores.

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*) V. la Sentence arbitrale, ci-dessous No. 10.

Ministerio de Relaciones Exteriores.

No. 6. Lima, 21 de enero de 1910.

Señor encargado de negocios:

Tuve el honor de reçibir oportunamente la estimable nota de V. S. de fecha 15 de diciembre último, destinada á hacer formal propuesta á este gobierno para someter á un juicio arbitral los puntos de discusión de la controversia Canevaro.

El congreso nacional ha desaprobado el protocolo Prado-Carletti de 1906, fundándose especialmente en el hecho de la nacionalidad peruana de la casa José Canevaro é hijos, por quien se ha entablado la reclamación y en el antecedente de que el crédito en que se funda está comprendido en la ley de deuda interna de 1889. Tal resolución que mi gobierno encuentra absolutamente justificada, después del estudio que se ha hecho del asunto y de los datos que se han tomado en cuenta, pone el debate iniciado por el gobierno de V. S. en situación de ser resuelto prontamente. Para ello basta que el gobierno de Italia se convenza de la exactitud de las observaciones fundamentales á que me he referido.

La casa José Canevaro é hijos nació y se constituyó en Lima bajo el amparo de las leyes peruanas, era peruana en 1875, época en que, según se afirma, se adquirieron las letras vendidas por el gobierno del Perú, y lo era también cuando se presentó la reclamación. Es punto perfectamente admitido por los tratadistas de derecho internacional que la nacionalidad de una casa comercial se determina por el lugar de la residencia ó sea por el lugar donde tiene su principal establecimiento y donde están radicados sus negocios. Nada importa que el fundador don José Canevaro haya sido italiano, porque la casa se estableció regularmente en el Perú, aquí hizo sus negocios, inclusive el que motiva la reclamación, y fué siempre regida por las leyes peruanas.

La casa fué además considerada como peruana por los mismos socios que han tenido en ella participación, quienes, salvo el fundador, fueron también peruanos, pues la herencia relativamente reciente de don José Francisco Canevaro ha sido la herencia de una participación peruana. El poder que don José Canevaro dió á don José Francisco Canevaro para constituir un nuevo contrato de sociedad en 1877 dice así en su cláusula cuarta: „Si no se juzgare conveniente formar una nueva sociedad, confiero autorización á mi hijo José Francisco para reorganizar y dar forma á mi actual casa de José Canevaro é hijos de Lima, según lo prescriben las leyes peruanas, de suerte que dicha casa no se encuentre en oposición con las citadas leyes y otorgando las escrituras, declaraciones y demás formalidades necesarias para que la casa esté en regla."

Con esas instrucciones que confirman la nacionalidad primitiva y subsiguiente de la casa, se constituyó la nueva sociedad en 1877, formando parte de ella don José, don Rafael y don César Canevaro, siendo ciudadanos peruanos los dos últimos.

Siendo, pues, peruana la casa José Canevaro é hijos, no rige la reclamación diplomática iniciada por la legación italiana y no dudo, por lo tanto, que el gobierno de V. S. obteniendo los informes convenientes, se persuadirá de la exactitud de la calificación que dejo señalada y no insistirá, por consiguiente, en la gestión para el sometimiento á arbitraje á que se refiere la nota de vuestra señoría.

Aprovecho la oportunidad para reiterar á vuestra señoría las seguridades de mi mayor consideración.

M. F. Porras.

Al señor don Julio Bolognesi, encargado de negocios de Italia.

(Traducción).

Legación de S. M. el Rey de Italia.

No. 72. Lima, 22 de enero de 1910.

Señor ministro:

Tengo el honor de acusar recibo de la nota No. 6, fecha de ayer, en la cual V. E. tiene á bien expresarme la creencia de que el gobierno de S. M. no insistirá en someter á arbitraje la controversia Canevaro.

No creo del caso rebatir los argumentos de V. E.; pero me corresponde, sinembargo, poner la cuestión en su verdadero terreno.

Dice el artículo 1º del tratado general de arbitraje entre Italia y el Perú que las altas partes contratantes se obligan á someter al fallo arbitral todas las controversias que por cualquiera causa se susciten entre ellas, y para las cuales no ha popido conseguirse una solución amistosa mediante negociaciones directas.

El gobierno de S. M., con el firme propósito de cautelar los derechos de los hermanos condes Canevaro, actuales poseedores de las letras de cambio, firmadas por el gobierno del Perú, á la orden de la casa José Canevaro é hijos, ha hecho cerca del gobierno del Perú, todas las gestiones que corresponden para lograr una solución amigable, mediante el pago, por parte del gobierno del Perú, de aquellas letras de cambio.

Habiendo resultado vanas todas las negociaciones directas para obtener aquel pago, es indudable el derecho del gobierno italiano para recurrir al arbitraje; así pues, reitero á V. E. la formal propuesta que ya he hecho, á nombre del gobierno de S. M., de someter á arbitraje la controversia Canevaro, y apelo al mismo tiempo á la cortesía de V. E., para obtener una pronta y precisa respuesta.

Quiera, señor ministro, aceptar las seguridades de mi más alta consideración.

Giulio Bolognesi.

A. S. E. el señor doctor don Melitón F. Porras, ministro de relaciones exteriores.

Protocolo.

Reunidos en el ministerio de relaciones exteriores del Perú, los infrascritos, señores doctor don Melitón F. Porras, ministro del ramo, y conde Giulio Bolognesi, encargado de negocios de Italia, han convenido en lo siguiente:

El gobierno de la república peruana y el gobierno de S. M. el rey de Italia, no habiendo podido ponerse de acuerdo respecto de la reclamación formulada por el último, á nombre de los señores conde Napoleón, Carlos y Rafael Canevaro, para el pago de la suma de cuarenta y tres mil, ciento cuarenta libras esterlinas, y sus intereses legales, que ellos soliciten del gobierno del Perú.

Han determinado, de conformidad con el artículo I del tratado permanente de arbitraje existente entre los dos países, someter esta controversia á la corte permanente de arbitraje de La Haya, la cual deberá juzgar en derecho los siguientes puntos:

¿Debe el gobierno del Perú pagar en efectivo ó con arreglo á las disposiciones de la ley peruana de deuda interna de 12 de junio de 1889, los libramientos de que son actualmente poseedores los hermanos Napoleón, Carlos y Rafael Canevaro y que fueron girados por el gobierno peruano á la orden de la casa José Canevaro é hijos por la suma de 43,140 libras esterlinas, y además los intereses legales de dicha suma?

¿Tienen los hermanos Canevaro derecho á exigir la totalidad de la suma reclamada?

¿Tiene don Rafael Canevaro derecho á ser considerado como reclamante italiano?

El gobierno de la república peruana y el gobierno de S. M. el rey de Italia se obligan á nombrar, dentro de cuatro meses, contados desde la fecha de este protocolo, los miembros de la corte arbitral.

A los siete meses de la constitución de la corte arbitral, ambos gobiernos le presentarán la exposición completa de la controversia, con todos los documentos, pruebas, alegatos y argumentos del caso; cada gobierno podrá disponer de otros cinco meses para presentar ante la corte arbitral su respuesta, al otro gobierno, y en dicha respuesta solamente será permitido referirse á las alegaciones contenidas en la exposión de la parte contraria.

Se considerará entonces terminada la discusión, á menos que la corte arbitral solicite nuevos documentos, pruebas ó alegatos que deberán ser presentados dentro de cuatro meses, contados desde el momento en que el árbitro los pida.

Si dichos documentos, pruebas ó alegatos no se hubiesen presentado en este término, se pronunciará la sentencia arbitral como si no existieran.

En fé de lo cual, los infrascritos firman el presente protocolo, redactado en español y en italiano, poniendo en él sus respectivos sellos.

Hecho en doble ejemplar, en Lima, el veinticinco de abril de mil novecientos diez.

(L. S.) *M. F. Porras.*
(L. S.) *Giulio Bolognesi.*

Lima, 25 de abril de 1910.

Apruébase el convenio que precede, por el cual se somete al arbitraje de la corte permanente de La Haya las divergencias suscitadas con el gobierno italiano acerca de la reclamación Canevaro, de conformidad con el tratado general de arbitraje entre el Perú é Italia de 18 de abril de 1905.

Regístrese.

Rúbrica de S. E. *Porras.*

Ministerio de Relaciones Exteriores

No. 18. Lima, 27 de abril de 1910.

Señor encargado de negocios:

No habiéndose estipulado en el protocolo que somete á arbitraje la reclamación presentada contra el gobierno del Perú por los hermanos Canevaro, la forma de constitución de la corte arbitral, me es grato proponer á vuestra señoría que ella se haga de acuerdo con el artículo 87 de la convención para el arreglo pacífico de los conflictos internacionales, firmada en La Haya en 1907.

Renuevo á vuestra señoría, las seguridades de mi mayor consideración.

M. F. Porras.

Al señor conde Julio Bolognesi, encargado de negocios de Italia.

(Traducción)

Legación de S. M. el Rey de Italia

No. 273. Lima, 27 de abril de 1910.

Señor ministro:

Tengo el honor de acusar á V. E. recibo de su nota No. 18, fecha de hoy, y me es grato aceptar la propuesta de V. E. de constituir la corte arbitral de la Haya que debe dar su fallo en la controversia Canevaro, con arreglo á las disposiciones del artículo 87 de la convención para el arreglo pacífico de los conflictos internacionales firmada en La Haya en 1907.

Quiera, señor ministro, aceptar las seguridades de mi más alta y distinguida consideración.

Giulio Bolognesi.

A S. E. el doctor don Melitón F. Porras, ministro de relaciones exteriores.

10.

ITALIE, PÉROU.

Sentence du Tribunal arbitral chargé de statuer sur le différend au sujet de la réclamation des frères Canevaro; rendue à la Haye, le 3 mai 1912.*)

Publication de la Cour permanente d'arbitrage à la Haye.

Considérant que, par un Compromis en date du 25 avril 1910, le Gouvernement Italien et le Gouvernement du Pérou se sont mis d'accord à l'effet de soumettre à l'arbitrage les questions suivantes:

„Le Gouvernement du Pérou doit-il payer en espèces ou bien d'après „les dispositions de la loi péruvienne sur la dette intérieure du 12 juin „1889 les lettres à ordre (cambiali, libramientos) dont sont actuellement „possesseurs les frères Napoléon, Carlo et Raphaël Canevaro, qui „furent tirées par le Gouvernement du Pérou à l'ordre de la maison José „Canevaro è Hijos pour le montant de 43 140 livres sterling plus les „intérêts légaux du montant susdit?"

„Les frères Canevaro ont-ils le droit d'exiger le total de la somme „réclamée?"

„Le comte Raphaël Canevaro a-t-il le droit d'être considéré comme „réclamant italien?"

Considérant qu'en exécution de ce Compromis, ont été désignés comme Arbitres:

Monsieur Louis Renault, Ministre plénipotentiaire, Membre de l'Institut, Professeur à la Faculté de droit de l'Université de Paris et à l'Ecole des sciences politiques, Jurisconsulte du Ministère des Affaires Etrangères, Président;

Monsieur Guido Fusinato, Docteur en droit, ancien Ministre de l'Instruction publique, Professeur honoraire de droit international à l'Université de Turin, Député, Conseiller d'Etat;

Son Excellence Monsieur Manuel Alvarez Calderon, Docteur en droit, Professeur à l'Université de Lima, Envoyé extraordinaire et Ministre plénipotentiaire du Pérou à Bruxelles et à Berne.

Considérant que les deux Gouvernements ont respectivement désigné comme Conseils:

Le Gouvernement Royal Italien:

Monsieur le Professeur Vittorio Scialoja, Sénateur du Royaume d'Italie et, comme conseil adjoint, le Comte Giuseppe Francesco Canevaro, Docteur en droit.

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*) V. ci-dessus, No. 9.

Le Gouvernement Péruvien:

Monsieur Manuel Maria Mesones, Docteur en droit, Avocat.

Considérant que, conformément aux dispositions du Compromis, les Mémoires et Contre-mémoires ont été dûment échangés entre les Parties et communiqués aux Arbitres;

Considérant que le Tribunal s'est réuni à La Haye le 20 avril 1912.

Considérant que, pour la simplification de l'exposé qui suivra, il vaut mieux statuer d'abord sur la troisième question posée par le Compromis, c'est-à-dire sur la qualité de Raphaël Canevaro;

Considérant que, d'après la législation péruvienne (Art. 34 de la Constitution), Raphaël Canevaro est péruvien de naissance comme étant né sur le territoire péruvien,

Que, d'autre part, la législation italienne (Art. 4 du Code civil) lui attribue la nationalité italienne comme étant né d'un père italien;

Considérant qu'en fait, Raphaël Canevaro s'est, à plusieurs reprises, comporté comme citoyen péruvien, soit en posant sa candidature au Sénat où ne sont admis que les citoyens péruviens et où il est allé défendre son élection, soit surtout en acceptant les fonctions de Consul-général des Pays-Bas, après avoir sollicité l'autorisation du Gouvernement, puis du Congrès péruvien;

Considérant que, dans ces circonstances, quelle que puisse être en Italie, au point de vue de la nationalité, la condition de Raphaël Canevaro, le Gouvernement du Pérou a le droit de le considérer comme citoyen péruvien et de lui dénier la qualité de réclamant italien.

Considérant que la créance qui a donné lieu à la réclamation soumise au Tribunal résulte d'un décret du dictateur Piérola du 12 décembre 1880, en vertu duquel ont été créés, à la date du 23 du même mois, des bons de paiement (libramientos) à l'ordre de la maison „José Canevaro è Hijos" pour une somme de 77000 livres sterling, payables à diverses échéances;

Que ces bons n'ont pas été payés aux échéances fixées, qui ont coïncidé avec l'occupation ennemie;

Qu'un acompte de 35000 livres sterling ayant été payé à Londres en 1885, il reste une créance de 43 140 livres sterling sur le sort de laquelle il s'agit de statuer;

Considérant qu'il résulte des faits de la cause que la maison de commerce „José Canevaro è Hijos", établie à Lima, a été reconstituée en 1885 après la mort de son fondateur, survenue en 1883;

Qu'elle a bien conservé la raison sociale „José Canevaro è Hijos", mais qu'en réalité, comme le constate l'acte de liquidation du 6 février 1905, elle était composée de José Francisco et de César Canevaro, dont la nationalité péruvienne n'a jamais été contestée, et de Raphaël Canevaro, dont la même nationalité, aux termes de la loi du Pérou, vient d'être reconnue par le Tribunal;

Que cette société, péruvienne à un double titre et par son siège social et par la nationalité de ses membres, a subsisté jusqu'à la mort de José Francisco Canevaro, survenue en 1900;

Considérant que c'est au cours de l'existence de cette société que sont intervenues les lois péruviennes du 26 octobre 1886, du 12 juin 1889 et du 17 décembre 1898 qui ont édicté les mesures les plus graves en ce qui concerne les dettes de l'Etat péruvien, mesures qu'a paru nécessiter l'état désastreux auquel le Pérou avait été réduit par les malheurs de la guerre étrangère et de la guerre civile;

Considérant que, sans qu'il y ait lieu pour le Tribunal d'apprécier en elles-mêmes les dispositions des lois de 1889 et de 1898, certainement très rigoureuses pour les créanciers du Pérou, leurs dispositions s'imposaient sans aucun doute aux Péruviens individuellement comme aux sociétés péruviennes, qu'il y a là un pur fait que le Tribunal n'a qu'à constater.

Considérant que, le 30 septembre 1890, la Société Canevaro, par son représentant Giacometti, s'adressait au Sénat pour obtenir le paiement des 43140 livres sterling qui auraient été, suivant lui, fournis pour satisfaire aux nécessités de la guerre;

Que, le 9 avril 1891, dans une lettre adressée au Président du Tribunal des Comptes, Giacometti assignait une triple origine à la créance: un solde dû à la maison Canevaro par le Gouvernement comme prix d'armements achetés en Europe au temps de la guerre; lettres tirées par le Gouvernement à la charge de la consignation du guano aux Etats-Unis, protestées et payées par José Francisco Canevaro; argent fourni pour l'armée par le Général Canevaro;

Qu'enfin le 1er avril 1891, le même Giacometti, s'adressant encore au Président du Tribunal des Comptes, invoquait l'article 14 de la loi du 12 juin 1889 que, disait-il, le Congrès avait votée „animado del mas patriotico proposito", pour obtenir le règlement de la créance;

Considérant que le représentant de la maison Canevaro avait d'abord assigné à la créance une origine manifestement erronée, qu'il ne s'agissait nullement de fournitures ou d'avances faites en vue de la guerre contre le Chili, mais, comme il a été reconnu plus tard, uniquement du remboursement de lettres de change antérieures qui, tirées par le Gouvernement péruvien, avaient été protestées, puis acquittées par la maison Canevaro;

Que c'est en présence de cette situation qu'il convient de se placer;

Considérant que la maison Canevaro reconnaissait bien, en 1890 et en 1891, qu'elle était soumise à la loi de 1889 sur la dette intérieure, qu'elle cherchait seulement à se placer dans le cas de profiter d'une disposition favorable de cette loi au lieu de subir le sort commun des créanciers;

Que sa créance ne rentre pas dans les dispositions de l'article 14 de la dite loi qu'elle a invoquée, ainsi qu'il a été dit plus haut; qu'il ne s'agit pas, dans l'espèce, d'un dépôt reçu par le Gouvernement, ni de lettres de change tirées sur le Gouvernement, acceptées par lui et recon-

nues légitimes par le Gouvernement „actuel", mais d'une opération de comptabilité n'ayant pas pour but de procurer des ressources à l'Etat, mais de régler une dette antérieure;

Que la créance Canevaro rentre, au contraire, dans les termes très compréhensifs de l'article 1er, n⁰. 4 de la loi qui mentionnent les ordres de paiement *(libramientos)*, bons, chèques, lettres et autres mandats de paiement émis par les bureaux nationaux *jusqu'en janvier 1880;* qu'on peut, à la vérité, objecter que ce membre de phrase semble devoir laisser en dehors la créance Canevaro qui est du 23 décembre 1880; mais qu'il importe de faire remarquer que cette limitation quant à la date avait pour but d'exclure les créances nées des actes du dictateur Piérola, conformément à la loi de 1886 qui a déclaré nuls tous les actes de ce dernier; qu'ainsi, en prenant à la lettre la disposition dont il s'agit, la créance Canevaro ne pourrait être invoquée à aucun titre, même pour obtenir la faible proportion admise par la loi de 1889;

Mais considérant que, d'une part, il résulte des circonstances et des termes du Compromis que le Gouvernement péruvien reconnaît lui-même comme non applicable à la créance Canevaro la nullité édictée par la loi de 1886; que, d'autre part, la nullité du décret de Piérola laisserait subsister la créance antérieure née du paiement des lettres de change;

Qu'ainsi, la créance résultant des bons de 1880 délivrés à la maison Canevaro doit être considérée comme rentrant dans la catégorie des titres énumérés dans l'article 1er, n⁰. 4, de la loi.

Considérant qu'il a été soutenu d'une manière générale que la dette Canevaro ne devait pas subir l'application de la loi de 1889, qu'elle ne pouvait être considérée comme rentrant dans *la dette intérieure*, parce que tous ses éléments y répugnaient, le titre étant à ordre, stipulé payable en livres sterling, appartenant à des Italiens;

Considérant qu'en dehors de la nationalité des personnes, on comprend que des mesures financières, prises dans l'intérieur d'un pays, n'atteignent pas les actes intervenus au dehors par lesquels le Gouvernement a fait directement appel au crédit étranger; mais que tel n'est pas le cas dans l'espèce: qu'il s'agit bien, dans les titres délivrés en décembre 1880, d'un règlement d'ordre intérieur, de titres créés à Lima, payables à Lima, en compensation d'un paiement fait volontairement dans l'intérêt du Gouvernement du Pérou;

Que cela n'est pas infirmé par les circonstances que les titres étaient à ordre, payables en livres sterling, circonstances qui n'empêchaient pas la loi péruvienne de s'appliquer à des titres créés et payables sur le territoire où elle commandait;

Que l'énumération de l'article 1er n⁰. 4 rappelée plus haut comprend des titres à ordre et que l'article 5 prévoit qu'il peut y avoir des conversions de monnaies à faire;

Qu'enfin il a été constaté précédemment que, lorsque sont intervenues les mesures financières qui motivent la réclamation, la créance appartenait à une société incontestablement péruvienne.

Considérant que la créance de 1880 appartient actuellement aux trois frères Canevaro dont deux sont certainement Italiens;

Qu'il convient de se demander si cette circonstance rend inapplicable la loi de 1889;

Considérant que le Tribunal n'a pas à rechercher ce qu'il faudrait décider si la créance avait appartenu à des Italiens au moment où intervenait la loi qui réduisait dans de si grandes proportions les droits des créanciers du Pérou et si les mêmes sacrifices pouvaient être imposés aux étrangers et aux nationaux;

Mais qu'en ce moment, il s'agit uniquement de savoir si la situation faite aux nationaux, et qu'ils doivent subir, sera modifiée radicalement, parce qu'aux nationaux sont substitués des étrangers sous une forme ou sous une autre;

Qu'une telle modification ne saurait être admise aisément, parce qu'elle serait contraire à cette idée simple que l'ayant-cause n'a pas plus de droit que son auteur.

Considérant que les frères Canevaro se présentent comme détenant les titres litigieux en vertu d'un endossement;

Que l'on invoque à leur profit l'effet ordinaire de l'endossement qui est de faire considérer le porteur d'un titre à ordre comme créancier direct du débiteur, de telle sorte qu'il peut repousser les exceptions qui auraient été opposables à son endosseur;

Considérant que, même en écartant la théorie d'après laquelle, en dehors des effets de commerce, l'endossement est une cession entièrement civile, il y a lieu, dans l'espèce, d'écarter l'effet attribué à l'endossement;

Qu'en effet, si la date de l'endossement des titres de 1880 n'est pas connue, il est incontestable que cet endossement est de beaucoup postérieur à l'échéance; qu'il y a lieu, dès lors, d'appliquer la disposition du Code de commerce péruvien de 1902 (art. 436) d'après laquelle l'endossement postérieur à l'échéance ne vaut que comme cession ordinaire;

Que, d'ailleurs, le principe susrappelé au sujet de l'effet de l'endossement n'empêche pas d'opposer au porteur les exceptions tirées de la nature même du titre, qu'il a connues ou dû connaître; qu'il est inutile de faire remarquer que les frères Canevaro connaissaient parfaitement le caractère des titres endossés à leur profit.

Considérant que, si les frères Canevaro ne peuvent, en tant que possesseurs de la créance en vertu d'un endossement, prétendre à une condition plus favorable que celle de la société dont ils tiendraient leurs droits, il est permis de se demander si leur situation ne doit pas être différente en les envisageant en qualité d'héritiers de José Francisco Canevaro, comme les présente une déclaration notariée du 6 février 1905;

Qu'il y a, en effet, cette différence entre le cas de cession et le cas d'hérédité que, dans ce dernier, ce n'est pas par un acte de pure volonté que la créance a passé d'une tête sur une autre;

Que, néanmoins, on ne trouve aucune raison décisive pour admettre que la situation a changé par ce fait que des Italiens ont succédé à un

Péruvien et que les héritiers ont un titre nouveau qui leur permet de se prévaloir de la créance dans des conditions plus favorables que le *de cujus*;

Que c'est une règle générale que les héritiers prennent les biens dans l'état où ils se trouvaient entre les mains du défunt.

Considérant qu'enfin il a été soutenu que la loi péruvienne de 1889 sur la dette intérieure, sans changer les créances existantes contre le Pérou, avait seulement donné au Gouvernement la faculté de s'acquitter de ses dettes d'une certaine manière quand les créanciers en réclameraient le paiement, que c'est au moment où le paiement est réclamé qu'il faut se placer pour savoir si l'exception résultant de la loi peut être invoquée contre toutes personnes, spécialement contre les étrangers;

Que, les propriétaires actuels de la créance étant des Italiens, il y aurait lieu pour le Tribunal de se prononcer sur le point de savoir si la loi péruvienne de 1889, malgré son caractère exceptionnel, peut être imposée aux étrangers;

Mais considérant que ce point de vue paraît en désaccord avec les termes généraux et l'esprit de la loi de 1889;

Que le Congrès, dont il ne s'agit pas d'apprécier l'œuvre en elle-même, a entendu liquider complètement la situation financière du Pérou, substituer les titres qu'il créait aux titres anciens;

Que cette situation ne peut être modifiée, parce que les créanciers se présentent plus ou moins tôt pour le règlement de leurs créances;

Que telle était la situation de la maison Canevaro, péruvienne au moment où la loi de 1889 entrait en vigueur, et que, pour les motifs déjà indiqués, cette situation n'a pas été changée en droit par le fait que la créance a, par endossement ou par héritage, passé à des Italiens.

Considérant, en dernier lieu, qu'il a été allégué que le Gouvernement péruvien doit indemniser les réclamants du préjudice que leur a occasionné son retard à s'acquitter de la dette de 1880, que le préjudice consiste dans la différence entre le paiement en or et le paiement en titres de la dette consolidée; qu'ainsi le Gouvernement péruvien serait tenu de payer en or la somme réclamée, en admettant même que la loi de 1889 se soit régulièrement appliquée à la créance;

Considérant que le Tribunal estime qu'en entrant dans cet ordre d'idées, il sortirait des termes du Compromis qui le charge seulement de décider si le Gouvernement du Pérou doit payer en argent comptant *ou* d'après les dispositions de la loi péruvienne du 12 juin 1889; que, le Tribunal ayant admis cette dernière alternative, la première solution doit être exclue; qu'il n'est pas chargé d'apprécier la responsabilité qu'aurait encourue à un autre titre le Gouvernement péruvien, de rechercher notamment si le retard à payer peut ou non être excusé par les circonstances difficiles dans lesquelles il se trouvait, étant donné surtout qu'il s'agirait en réalité d'une responsabilité encourue envers une maison péruvienne qui était créancière quand le retard s'est produit.

Considérant qu'il y a lieu de rechercher quel était le montant de la créance Canevaro au moment où est entrée en vigueur la loi de 1889;

Qu'elle se composait d'abord du capital de 43140 livres sterling, mais qu'il faut y ajouter les intérêts ayant couru jusque là;

Que les intérets qui étaient, d'après le décret du 23 décembre 1880, de 4°/o par an jusqu'aux échéances respectives des bons délivrés et qui étaient compris dans le montant de ces bons, doivent être, à partir de ces échéances, calculés au taux légal de 6°/o (Art. 1274 du Code civil péruvien) jusqu'au 1er janvier 1889;

Qu'on obtient ainsi une somme de £ 16577.2.2 qui doit être jointe au principal pour former la somme globale devant être remboursée en titres de la dette consolidée et devant produire un intérêt de 1°/o payable en or à partir du 1er janvier 1889 jusqu'au paiement définitif;

Considérant que, d'après ce qui a été décidé plus haut relativement à la situation de Raphaël Canevaro, c'est seulement au sujet de ses deux frères que le Tribunal doit statuer.

Considérant qu'il appartient au Tribunal de régler le mode d'exécution de sa sentence.

Par ces motifs,

Le Tribunal arbitral décide que le Gouvernement Péruvien devra, le 31 juillet 1912, remettre à la Légation d'Italie à Lima pour le compte des frères Napoléon et Carlo Canevaro:

1°. en titres de la dette intérieure (1°/o) de 1889, le montant nominal de trente-neuf mille huit cent onze livres sterling huit sh. un p. (£ 39811.8.1) contre remise des deux tiers des titres délivrés le 23 décembre 1880 à la maison José Canevaro è Hijos;

2°. en or, la somme de neuf mille trois cent quatre-vingt huit livres sterling dix-sept sh. un p. (£ 9388.17.1.), correspondant à l'intérêt de 1°/o du 1er janvier 1889 au 31 juillet 1912.

Le Gouvernement péruvien pourra retarder le paiement de cette dernière somme jusqu'au 1er janvier 1913 à la charge d'en payer les intérêts à 6°/o à partir du 1er août 1912.

Fait à la Haye, dans l'Hôtel de la Cour Permanente d'Arbitrage, le 3 mai 1912.

Le Président: *Louis Renault.*
Le Secrétaire général: *Michiels van Verduynen.*

11.

ITALIE, PORTUGAL.

Echange de notes diplomatiques afin de renouveler la convention d'arbitrage conclue le 11 mai 1905;*) des 21 avril et 10 mai 1910.

Gazzetta ufficiale 1910. No. 195.

Il R. ministro d'Italia in Lisbona a S. E. il ministro degli affari esteri di Sua Maestà Fedelissima.

Con lettera del 31 marzo u. s., ebbi l'onore di partecipare a Vostra Eccellenza che il Governo del Re era disposto a rinnovare per cinque anni dalla data della sua scadenza, dell'11 del mese prossimo, la convenzione d'arbitrato conclusa col Portogallo l'11 maggio 1905.

L'Eccellenza Vostra m'ha informato con sua lettera del 30 aprile, che il Governo di Sua Maestà Fedelissima era egualmente disposto a procedere alla proroga di detto accordo, mercè scambio rispettivo di Note.

Resta quindi inteso che questa mia Nota e quella che Vostra Eccellenza avrà la cortesia di inviarmi in risposta, serviranno a constatare l'accordo intervenuto fra i due Governi.

Gradisca, ecc.

Lisbona, 21 aprile 1910.

Paulucci de' Calboli.

Il ministro degli affari esteri di Sua Maestà Fedelissima al R. ministro d'Italia in Lisbona.

Lisboa, 10 de maio 1910.

Tenho a honra de accusar recepção da Nota que V. Ex. se serviu dirigir-me em 21 abril proximo findo, consignando o accordo dos Governos de Sua Magestade e de Sua Magestade o Rei d'Italia, de prorogarem por cinco annos, a contar da data da sua expiracão, a convenção de arbitragem de 11 maio de 1905, cuja vigencia termina no dia 11 do corrente.

Por parte do Governo de Sua Magestade consigno egualmente aquelle accordo.

Fica por conseguinte estipulado que a presente Nota e a de V. Ex. de 21 abril proximo findo constituem o entendimento dos dois Governos e registam gara todos os effeitos a prorogação, nos termos acima indicados, do tratado de 11 de maio de 1905.

Apróveito o esejo para reiterar a. V. Ex. ecc.

A. Edoardo Villaça.

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*) V. N. R. G. 2. s. XXXIII, p. 139.

12.

ITALIE, ESPAGNE.

Convention d'arbitrage; signée à Saint Sébastien, le 2 septembre 1910.*)

Gazzetta ufficiale 1912. No. 114.

Convention d'arbitrage entre l'Italie et l'Espagne.

Sa Majesté le Roi d'Italie et Sa Majesté le Roi d'Espagne, désirant régler autant que possible par la voie de l'arbitrage les differends qui pourraient s'élever entre leurs pays ont décidé de conclure, à cet effet, une Convention et ont nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté le roi d'Italie:

Son Excellence Jules Silvestrelli, Son Ambassadeur à Madrid, Gran Cordon de Son Ordre de la Couronne d'Italie, Grand Officier de Son Ordre des Saints Maurice et Lazare, etc., etc.

Sa Majesté le roi d'Espagne:

Son Excellence Manuel Gargía Prieto, Son Ministre d'Etat, Député, Président de l'Académie Royale de jurisprudence et législation, Grand Croix de l'Ordre civil de Alphonse XII, etc., etc.

Lesquels après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Art. I.

Les Hautes Parties contractantes s'engagent à soumettre à la Cour permanente d'arbitrage, établie à La Haye par la Convention du 29 juillet 1899**), les différends qui viendraient à s'élever entre elles pour autant qu'ils ne touchent ni à l'honneur, ni à l'indépendance, ni à la souveraineté des pays contractants et qu'une solution amiable n'ait pu être obtenue par des négociations diplomatiques directes, ou par toute autre voie de conciliation.

Art. II.

Il appartient à chacune des Hautes Parties contractantes d'apprécier si le différend qui se sera produit met en cause son honneur, son indépendance ou sa souveraineté et par conséquent est de nature à être compris parmi ceux qui, d'après l'article précédent, sont exceptés de l'arbitrage obligatoire.

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*) Les ratifications ont été échangées à Madrid, le 17 février 1912.
**) V. N. R. G. 2. s. XXVI, p. 920.

Art. III.

En chaque cas particulier les Hautes Parties contractantes signent un compromis spécial déterminant nettement l'objet du litige, l'étendue des pouvoirs de l'arbitre ou du tribunal arbitral, le mode de sa désignation, son siège, la langue dont il fera usage et celles dont l'emploi sera autorisé devant lui, le montant de la somme que chacune des Hautes Parties aura à déposer à titre d'avance pour les frais ainsi que les règles à observer en ce qui concerne les formalités et les délais de la procédure et, généralement, toutes conditions dont elles seront convenues.

Art. IV.

Aucun des arbitres ne pourra être ressortissant des Etats signataires de la présente Convention, ni être domicilié dans leurs territoires, ni être intéressé dans les questions que feront l'objet de l'arbitrage.

Art. V.

Dans les questions du ressort des autorités judiciaires nationales, selon les lois territoriales, les Parties contractantes ont le droit de ne pas soumettre le différend au jugement arbitral jusqu'à ce que la juridiction nationale compétente ne se soit prononcée définitivement, sauf le cas de déni de justice.

Art. VI.

Sauf les dispositions de l'article III, la procédure arbitrale sera réglée par les dispositions établies par la Convention de La Haye pour le règlement pacifique des conflits internationaux du 29 juillet 1899 et de celle du 18 octobre 1907*) aussitôt qu'elle sera entrée en vigueur entre les Parties Contractantes.

Art. VII.

La présente Convention sera ratifiée dans le plus bref délai possible et les actes de ratification seront échangés à Madrid. Elle aura une durée de dix ans à partir de l'échange des ratifications. Si elle n'est dénoncée six mois avant son échéance, elle sera censée être renouvelée pour une période de dix ans et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé la présente Convention et l'ont revêtue de leurs cachets.

Fait à Saint Sébastien, le deux septembre mille neuf cent dix.

(L. S.) *G. Silvestrelli.*
(L. S.) *M. Garçía Prieto.*

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*) V. N. R. G. 3. s. III, p. 360.

13.

ITALIE, RUSSIE.

Convention d'arbitrage; signée à St.-Pétersbourg, le 27/14 octobre 1910.*)

Gazzetta ufficiale 1912. No. 114.

Convention d'arbitrage entre l'Italie et la Russie.

Sa Majesté le Roi d'Italie et sa Majesté l'Empereur de toutes les Russies, désirant régler autant que possible par la voie de l'arbitrage les différends qui pourraient s'élever entre leurs pays, ont décidé de conclure à cet effet une Convention et ont nommé pour leurs plénipotentiaires, savoir:

Sa Majesté le roi d'Italie:

Son Excellence le chevalier Melegari, son ambassadeur extraordinaire et plénipotentiaire près la cour impériale de Russie; et

Sa Majesté l'Empereur de toutes les Russies:

Monsieur Serge Sazonow, en fonctions de maître de sa cour, son conseiller d'Etat actuel et gérant du ministère des affaires étrangères;

lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des articles suivants:

Art. 1. Les Hautes Parties contractantes s'engagent à soumettre à la cour permanente d'arbitrage, établie à la Haye par la Convention du 29/17 juillet 1899,**) les différends qui viendraient à s'élever entre elles dans les cas énumérés à l'article 3, pour autant qu'ils ne touchent ni à l'honneur, ni à l'indépendance, ni aux intérêts vitaux, ni à l'exercice de la souveraineté des pays contractants et qu'une solution amiable n'ait pu être obtenue par des négociations diplomatiques directes ou par toute autre voie de conciliation.

Art. 2. Il appartient à chacune des Hautes Parties contractantes d'apprécier si le différend qui sera produit met en cause ses intérêts vitaux, son honneur, son indépendance ou l'exercice de sa souveraineté et, par conséquent, est de nature à être compris parmi ceux qui, d'après l'article précédent, sont exceptés de l'arbitrage obligatoire.

Art. 3. L'arbitrage sera obligatoire entre les Hautes Parties contractantes:

I. En cas de contestations concernant l'application ou l'interprétation de toute Convention conclue ou à conclure entre les Hautes Parties contractantes et relative:

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*) Les ratifications ont été échangées à St.-Pétersbourg, le 25/12 janvier 1911.
**) V. N. R. G. 2. s. XXVI, p. 920.

1° aux matières de droit international privé;

2° au régime des sociétés commerciales et industrielles légalement constituées dans l'un des pays;

3° aux matières de procédure soit civile, soit pénale et à l'extradition;

II. En cas de contestations concernant des réclamations pécuniaires du chef de dommages lorsque le principe de l'indemnité est reconnu par les Parties.

Seront exclus de la solution arbitrale les différends qui naîtraient éventuellement au sujet de l'interprétation ou de l'application d'une convention conclue ou à conclure entre les Hautes Parties contractantes et à laquelle des tierces puissances auraient participé ou adhéré.

Art. 4. La présente Convention recevrait son application même si les contestations qui viendraient à s'élever avaient leur origine dans de faits antérieurs à sa conclusion.

Art. 5. Lorsqu'il y aura lieu à un arbitrage entre elles, les Hautes Parties contractantes, à défaut de clauses compromissoires contraires, se conformeront, pour tout ce qui concerne la désignation des arbitres et la procédure arbitrale et sauf en ce qui concerne les points indiqués ci-après, aux dispositions établies par l'article 52 de la Convention signée à la Haye le 18/5 octobre 1907 pour le règlement pacifique des conflits internationaux,*) aussitôt que cette dernière Convention sera exécutoire dans les deux Etats contractants.

Art. 6. Aucun des arbitres ne pourra être sujet des Etats signataires de la présente Convention, ni domicilié dans leurs territoires. Ils ne devront avoir aucun intérêt dans les questions qui feront l'objet de l'arbitrage.

Art. 7. La sentence arbitrale contiendra l'indication des délais dans lesquels elle devra être exécutée.

Art. 8. La présente Convention aura la durée de dix ans. Elle entrera en vigueur un mois après l'échange des ratifications. Dans le cas où aucune des Hautes Parties contractantes n'aurait notifié, six mois avant la fin de la dite période, son intention d'en faire cesser les effets, la Convention demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Hautes Parties contractantes l'aura dénoncée.

Art. 9. La présente Convention sera ratifiée dans le plus bref délai possible et les ratifications seront échangées à St. Pétersbourg.

En foi de quoi les plénipotentiaires respectifs ont signé la présente Convention et l'ont revêtue du cachet de leurs armes.

Fait en double à St. Pétersbourg, le 27/14 octobre 1910.

(L. S.) *G. Melegari.*
(L. S.) *Sazonow.*

*) V. N. R. G. 3. s. III, p. 360.

14.

ETATS-UNIS D'AMÉRIQUE, MEXIQUE.

Sentence arbitrale de la Commission établie en vertu de la Convention du 24 juin 1910,*) pour mettre fin aux différends relatifs au district de Chamizal; rendue à El Paso, le 15 juin 1911.

Publication officielle. Washington 1911.

Chamizal arbitration, United States and Mexico.

Minutes of meeting of the Joint Commission, June 10, 1911.

El Paso, Texas, June 10, 1911.

The Joint Commission having been in session every day since the close of argument on June 2, 1911, discussing evidence and argument presented by the agents and counsel of the two Governments, proceeded to ballot for the purpose of arriving at a decision upon the following points, to wit:

I. Was the boundary line established by the Treaties of 1848**) and 1853†) along the Rio Grande a fixed and invariable line?

Upon this question the Mexican Commissioner voted yes; the United States Commissioner voted no; the Presiding Commissioner voted no.

II. Has the United States of America acquired title to the Chamizal tract by prescription?

Upon this question the Mexican Commissioner voted no; the United States Commissioner voted no; the Presiding Commissioner voted no.

III. Does the Treaty of 1884††) apply to all changes in the river subsequent to the survey of 1852?

Upon this question the Mexican Commissioner voted no; the United States Commissioner voted yes; the Presiding Commissioner voted yes.

IV. Was the whole of the Chamizal tract, as defined in the Convention of 1910, formed by slow and gradual erosion and deposit of alluvium within the meaning of Article I of the Convention of 1884?

Upon this question the Mexican Commissioner voted no; the United States Commissioner voted yes; the Presiding Commissioner voted no.

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*) V. **N. R. G.** 3. s. IV, p. 719.
) Traité du 2 février 1848; **N. R. G. XI, p. 387; XIV, p. 7.
†) Traité du 30 décembre 1853; **N. R. G.** 2. s. I, p. 1.
††) Traité du 12 novembre 1884; **N. R. G.** 2. s. XIII, p. 675.

V. Was the formation of the Chamizal tract up to 1864 due to slow and gradual erosion and deposit of alluvium within the meaning of article I of the Treaty of 1884?

Upon this question the Mexican Commissioner voted yes; the United States Commissioner declined to vote for the following reasons:

1. Article I of the Treaty of June 24, 1910, specifically bounds the Chamizal tract with technical accuracy, while article 3 provides that „The Commission shall decide solely and exclusively as to whether the international title to the Chamizal tract is in the United States of America or Mexico."

The United States Commissioner does not believe that the Commission, in view of these provisions, is empowered to divide the Chamizal tract between the two countries. This position was specifically taken by counsel for the United States in argument and not denied by counsel on behalf of Mexico. The Commission in dividing the Chamizal tract is taking action which was neither requested nor contemplated by either party.

2. The majority of the Commission in segregating the Chamizal tract is about to apply to some portion of the tract a standard not permitted by the treaties in force between the two countries.

The Convention of 1884 (see articles 1 and 2) and the Convention of 1889*), establishing the present International Boundary Commission (see, particularly, article 4), recognize only two classes of changes in the river channel through natural causes, i. e., (a) through the slow and gradual erosion and deposit of alluvium (article 1, 1884), or erosion (article 4, 1889); (b) by the abandonment of an existing river bed and the opening of a new one (article 1, 1884), or avulsion (article 4, 1889).

The Convention of June 24, 1910, whereby the Chamizal Case is „again referred to the International Boundary Commission, which shall be enlarged by the addition, for the purposes of the consideration and decision of the aforesaid difference only" (article 2), i. e., „said Commission established by the Convention of 1889" (preamble) in no wise modifies the provisions of the Conventions of 1884 and 1889, which confines the Commission to the consideration of the two classes of changes aforesaid, i. e., erosion and avulsion.

The Presiding Commission voted yes.

VI. Was the whole erosion which occurred in 1864 and after that date slow and gradual within the meaning of the Treaty of 1884?

Upon this question the Mexican Commissioner voted that it was not slow and gradual from 1864 to 1868. He has no data to cover each of the succeeding years.

The United States Commissioner declined to vote, for the same reasons stated with respect to the period from 1852 to 1864.

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*) Convention du 1 mars 1889; N. R. G. 2. s. XVIII, p. 553.

He furthermore declined to vote because the location of the river in 1864 is wholly obliterated and its position can never be re-established in any one of the points of its former location, and, therefore, even if the Commission were empowered to render a decision segregating that portion of the tract formed after 1864, provided the channel of 1864 could be located, a decision to this effect under the present circumstances, when the channel can by no possibility be relocated, is void because it is indeterminate, indefinite and impossible of accomplishment.

He furthermore pointed out that even if the Commission were empowered to segregate the Chamizal tract and even if it were possible to relocate the river channel of 1864 and even if the Commission were empowered to ingraft upon the treaty a new class of changes, i. e., some form of erosion which was not slow and gradual within the meaning of the treaty, nevertheless, the evidence conclusively shows that this hypothetical violent and rapid erosion could in no event have taken place except at certain points where the river impinged upon the banks with peculiar force, and not along the whole three miles where the tract bounds upon the river. Even if it be conceded, as alleged, that land at certain points in Mexico was destroyed by rapid and violent erosion, and that the Boundary Commission during the last seventeen years has been in error in construing such erosion as being within the terms of Article I of the Convention of 1884, nevertheless, the undisputed evidence in the record shows that the entire tract on the north bank of the river was formed by slow and gradual deposit of alluvium. It was, in his judgment, in any event, the duty of Mexico to establish by the preponderance of evidence the identity of any portion of land within the Chamizal tract alleged to have been formed as a result of violent and rapid erosion.

The Presiding Commissioner voted that the erosion which was caused by the flood of 1864 was not slow and gradual within the meaning of the Convention of 1884, nor was the erosion during the succeeding years up to and including 1868 of that character. There are no data, and it is immaterial to decide whether the erosion subsequent to that date was slow and gradual or not, inasmuch as the river had ceased to be the international boundary.

The United States Commissioner furthermore stated that he desired to file a dissenting opinion in which he would discuss the merits of the questions before the Commission on the points as to which he was compelled to dissent, as well as to elaborate the grounds which induced him to believe that the Commission by its decision has departed from the terms of the submission.

The Presiding Commissioner was requested to prepare the award in accordance with the above votes and the American and Mexican Commissioners to submit their opinions on the points on which they dissent.

The Commission then adjourned until further notice.

Award.

Before the International Boundary Commission, Enlarged by the Convention Between the United States and Mexico of June 24, 1910.

In the matter of the international title to the Chamizal tract.

Preamble.

Whereas a convention between the United States of America and the United States of Mexico for the arbitration of the differences which have arisen between the two governments as to the international title to the Chamizal tract, was concluded and signed by their respective plenipotentiaries at Washington on the twenty-fourth day of June, 1910, which is as follows:

Convention for the Arbitration of the Chamizal Case*).

— — — — — — — — — — — — — — —

And whereas the said convention was duly ratified on both parts, and the ratifications of the two governments were exchanged at the City of Washington on the twenty-fourth day of January, 1911.

And whereas on the fifth day of December, 1910, the plenipotentiaries who negotiated and signed the said convention of June 24, 1910, being thereunto duly empowered by their respective governments, agreed upon a supplementary protocol, which is as follows**):

— — — — — — — — — — — — — — —

And whereas the parties to the said convention of 24th of June, 1910, have, by common accord, in conformity with Article II thereof, enlarged the said International Boundary Commission by the addition, for the purposes of the consideration and decision of the aforesaid difference, of a third Commissioner, viz.:

Eugene Lafleur, one of His Britannic Majesty's Counsel, Doctor of Civil Law and former Professor of International Law at McGill University, who, together with

Anson Mills, Brigadier General of the United States Army (retired), Member of the American Geographical Society, American Commissioner of the International Boundary Commission, and

Fernando Beltram y Puga, Civil Engineer, Mexican Commissioner of the International Boundary Commission, Member of the Geographical Society of Mexico and of the American Geographical Society, Member of the Society of Civil Engineers and Architects of Mexico,

Have been constituted as a Commission for the decision as to whether the international title to the Chamizal tract is in the United States of America or in the United States of Mexico.

And whereas the agents of the parties to the said Convention have duly, and in accordance with the terms of the Convention, communicated

*) V. le texte N. R. G. 3. s. IV, p. 719.
**) V. le texte ibid. p. 724.

to this Commission their cases, countercases, printed arguments and other documents.

And whereas the agents and counsel for the parties have fully presented to this Commission their oral arguments during the sittings held at the City of El Paso between the first assembling of the Commission on the 15th May, 1911, to the close of the hearing on the 2nd June, 1911.

Now, therefore, this Commission, having carefully considered the said convention, cases, countercases, printed and oral arguments, and the documents presented by either side, after due deliberation, makes the following decision and award:

The Chamizal tract consists of about six hundred acres, and lies between the old bed of the Rio Grande, as it was surveyed in 1852, and the present bed of the river, as more particularly described in article 1 of the Convention of 1910. It is the result of changes which have taken place through the action of the water upon the banks of the river causing the river to move southward into Mexican territory.

With the progressive movement of the river to the south, the American city of El Paso has been extending on the accretions formed by the action of the river on its north bank, while the Mexican city of Juarez to the south has suffered a correspondingly loss of territory.

By the Treaties of 1848 and 1853 the Rio Grande, from a point a little higher than the present City of El Paso to its mouth in the Gulf of Mexico, was constituted the boundary line between the United States and Mexico.

The contention on behalf of the United States of Mexico is that this dividing line was fixed, under those treaties, in a permanent and invariable manner, and consequently that the changes which have taken place in the river have not affected the boundary line which was established and marked in 1852.

On behalf of the United States of America it is contended that according to the true intent and meaning of the Treaties of 1848 and 1853, if the channel of the river changes by gradual accretion the boundary follows the channel, and that it is only in case of a sudden change of bed that the river ceases to be the boundary, which then remains in the abandoned bed of the river.

It is further contended on behalf of the United States of America that by the terms of a subsequent boundary Convention in 1884, rules of interpretation were adopted which became applicable to all changes in the Rio Grande, which have occurred since the river became the international boundary, and that the changes which determined the formation of the Chamizal tract are changes resulting from slow and gradual erosion and deposit of alluvion within the meaning of that Convention, and consequently changes which left the channel of the river as the international boundary line.

The Mexican Government, on the other hand, contends that the Chamizal tract having been formed before the coming in force of the

Convention of 1884, that convention was not retroactive and could not affect the title to the tract, and further contends that even assuming the case to be governed by the Convention of 1884 the changes in the channel have not been the result of slow and gradual erosion and deposit of alluvion.

Finally the United States of America have set up a claim to the Chamizal tract by prescription, alleged to result from the undisturbed, uninterrupted, and unchallenged possession of the territory since the Treaty of 1848.

In 1889 the Governments of the United States and of Mexico by a convention created the International Boundary Commission for the purpose of carrying out the principles contained in the Convention of 1884 and to avoid the difficulties occasioned by the changes which take place in the bed of the Rio Grande where it serves as the boundary between the two republics, and for other purposes enumerated in Article I of the Convention of 1889.

At a session of the Boundary Commissioners, held on the 28th September, 1894, the Mexican Commissioner presented the papers in a case known as „El Chamizal No. 4.“ These included a complaint made by Pedro Ignacio Garcia, who alleged, in substance, that he had acquired certain property formerly lying on the south side of the Rio Grande, known as El Chamizal, which, in consequence of the abrupt and sudden change of current of the Rio Grande, was now on the north side of the river, and within the limits of El Paso, Texas. This claim was examined by the International Boundary Commissioners, who heard witnesses upon the facts, and who, after consideration, were unable to come to any agreement, and so reported to their respective governments.

As a result of this disagreement the Convention of 24th June, 1910, was signed, and the decision of the question was submitted to the present Commission.

Fixed line theory.

Article V of the Treaty of Guadalupe Hidalgo of 1848 provides for a boundary between the United States and Mexico in the following terms:

The boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence, up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence, westwardly, along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence, northward, along the western line of New Mexico until it intersects the first branch of the river Gila; (or if it should not intersect any branch of that river, then, to the point on the said line nearest to such branch, and thence in

a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence, across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled „*Map of the United Mexican States, as organized and defined by various Acts of the Congress of said Republic, and constructed according to the best authorities. Revised edition. Published at New York in 1847 by J. Disturnell;*" of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned Plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line, drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean, distant one marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782, by Don Juan Pantoja, second sailing-master of the Spanish fleet, and published at Madrid in the year 1802, in the atlas to the voyage of the schooners Sutil and Mexicana; of which plan a copy is hereunto added, signed and sealed by the respective Plenipotentiaries.

In order to designate the boundary line with due precision, upon authoritative maps, and to establish upon the ground landmarks which shall show the limits of both republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the Port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

The boundary line established by this article shall be religiously respected by each of the two republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution.

The fluvial portion of the boundary called for by the above treaty, in so far as the Rio Grande is concerned, extending from its mouth to the point where it strikes the southern boundary of New Mexico, appears to have been fixed by the surveys of the International Boundary Commission in 1852.

In 1853, in consequence of a dispute as to the land boundary and the acquisition of a portion of territory now forming part of New Mexico

and Arizona, known as the „Gadsden Purchase," the boundary treaty of 1853 was signed, the first article of which deals with the boundary as follows:

The Mexican Republic agrees to designate the following as her true limits with the United States for the future: Retaining the same dividing line between the two Californias as already defined and established, according to the fifth article of the treaty of Guadalupe Hidalgo, the limits between the two republics shall be as follows: Beginning in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, as provided in the fifth article of the treaty of Guadalupe Hidalgo; thence, as defined in the said article, up the middle of that river to the point where the parallel of 31° 47′ north latitude crosses the same; thence due west one hundred miles; thence south to the parallel of 31° 20′, north latitude; thence along the said parallel of 31° 20′ to the 111th meridian of longitude west of Greenwich; thence in a straight line to a point on the Colorado River twenty English miles below the junction of the Gila and Colorado Rivers; thence up the middle of the said river Colorado until it intersects the present line between the United States and Mexico.

For the performance of this portion of the treaty, each of the two Governments shall nominate one commissioner, to the end that, by common consent, the two thus nominated, having met in the city of Paso del Norte, three months after the exchange of the ratifications of this treaty, may proceed to survey and mark out upon the land the dividing line stipulated by this article, where it shall not have already been surveyed and established by the mixed commission, according to the treaty of Guadalupe, keeping a journal and making proper plans of their operations. For this purpose, if they should judge it necessary, the contracting parties shall be at liberty each to unite to its respective commissioner, scientific or other assistants, such as astronomers and surveyors, whose concurrence shall not be considered necessary for the settlement and ratification of a true line of division between the two republics; that line shall be alone established upon which the commissioners may fix, their consent in this particular being considered decisive and an integral part of this treaty, without necessity of ulterior ratification or approval, and without room for interpretation of any kind by either of the parties contracting.

The dividing line thus established shall, in all time, be faithfully respected by the two Governments, without any variation therein, unless of the express and free consent of the two, given in conformity to the principles of the law of nations, and in accordance with the constitution of each country, respectively.

In consequence, the stipulation in the fifth article of the treaty of Guadalupe upon the boundary line therein described is no longer of any force, wherein it may conflict with that here established the said line being considered annulled and abolished wherever it may not coincide with the

present, and in the same manner remaining in full force where in accordance with the same.

The Treaty of Guadalupe Hidalgo, signed on the 2nd February, 1848, provides that the boundary line between the two republics from the Gulf of Mexico shall be the middle of the Rio Grande, following the deepest channel where it has more than one, to the point where it strikes the southern boundary of New Mexico. It is conceded, on both sides, that if this provision stood alone it would undoubtedly constitute a natural, or arcifinious, boundary between the two nations and that according to well-known principles of international law, this fluvial boundary would continue, notwithstanding modifications of the course of the river caused by gradual accretion on the one bank or degradation on the other bank; whereas if the river deserted its original bed and forced for itself a new channel in another direction the boundary would remain in the middle of the deserted river bed. It is contended, however, on behalf of Mexico, that the provisions in the treaty providing for a designation of the boundary line with due precision, upon authoritative maps, and for establishing upon the grounds landmarks showing the limits of both republics, and the direction to commissioners and surveyors to run and mark the boundary in its full course to the mouth of the Rio Grande, coupled with the final stipulation that the boundary line thus established should be religiously respected by the two republics, and no change should ever be made therein, except by the express and free consent of both nations, takes this case out of the ordinary rules of international law, and by a conventional agreement converts a natural, or arcifinious, boundary into an artificial and invariable one. In support of this contention copious references have been made to the civil law, distinguishing between lands whose limits were established by fixed measurements (*agri limitati*) and arcifinious lands, which were not so limited (*agri arcifinii*). These two classes of lands were sometimes contrasted by saying that arcifinious lands were those which had natural boundaries, such as mountains and rivers, while limited estates were those which had fixed measurements. As a consequence of this distinction the Roman law denied the existence of the right of alluvion in favor of the limited estates which it was the custom to distribute among the Roman generals, and subsequently to the legionaries, out of conquered territory. This restriction of the ordinary rights appurtenant to riparian ownership is however considered, by the best authorities, to have been an exceptional provision applicable only to the case above mentioned, and one of the principal authorities relied on by the Mexican counsel (A. Plocquo, *Legislation des caux et de la navigation*, Vol. 2, page 66) clearly establishes that the mere fact that a riparian proprietor holds under a title which gives him a specified number of acres of land does not prevent him from profiting by alluvion. The difficulty in this case does not arise from the fact that the territories in question are established by any measurement, but because the boundary is ordered to be run and marked along the fluvial portion as well as on the land, and

on account of the further stipulation that no change shall ever be made therein. Do these provisions and expression, in so far as they refer to the fluvial portion of the boundary, convert it into an artificial boundary which will persist notwithstanding all changes in the course of the river? In one sense it may be said that the adoption of a fixed and invariable line, so far as the river is concerned, would not be a perpetual retaining of the river boundary provided for by the treaty, and would be at variance with the agreement of the parties that the boundary should forever run in the middle of the river. The direction as to marking the course of the river as it existed at the time of the Treaty of 1848 is not inconsistent with a fluvial line varying only in accordance with the general rules of international law, by erosion on one bank and alluvial deposits on the other bank, for this marking of the boundary may serve the purpose of preserving a record of the old river bed to serve as a boundary in cases in which it cuts a new channel.

Numerous treaties containing provisions as to river boundaries have been referred to by the two parties, showing that in some cases conventional arrangements are made that the river *simpliciter* shall be the boundary, or that the boundary shall run along the middle of the river, or along the *thalweg* or center or thread of the channel, while a small number of treaties contain elaborate dispositions for a fixed line boundary, notwithstanding the alterations which may take place in the river, with provision, however, for periodical readjustments in certain specified cases. The difficulty with these instances is that no cases appear to have arisen upon the treaties in question and their provisions throw little, if any, light upon the present controversy. In one case only among those cited there appears to have been a decision by the Court of Cassation in France (Dalloz, 1858, Part 1, page 401) holding that when a river separates two departments or two districts, the boundary is fixed in an irrevocable manner along the middle of the bed of the river as it existed at the time of the establishment of the boundary and that it is not subject to any subsequent variation, notwithstanding the changes in the river. Whatever authority this decision may have in the delimitation of departmental boundaries in France, it does not seem to be in accordance with recognized principles of international law, if, as appears from the report, it holds that the mere designation of a river as a boundary establishes a fixed and invariable line.

The above observations as to the Treaty of 1848 would seem to apply to the Gadsden Treaty of 1853, taken by itself, for it provides, in similar language, that the boundary shall follow the middle of the Rio Grande, that the boundary line shall be established and marked, and that the dividing line shall in all time be faithfully respected by the two governments without any variation therein.

While, however, the Treaty of 1848 standing alone, or the Treaty of 1853, standing alone, might seem to be more consistent with the idea of a fixed boundary than one which would vary by reason of alluvial

processes, the language of the Treaty of 1853, taken in conjunction with the existing circumstances, renders it difficult to accept the idea of a fixed and invariable boundary. During the five years which elapsed between the two treaties, notable variations of the course of the Rio Grande took place, to such an extent that surveys made in the early part of 1853, at intervals of six months, revealed discrepancies which are accounted for only by reason of the changes which the river had undergone in the meantime. Notwithstanding the existence of such changes, the Treaty of 1853 reiterates the provision that the boundary line runs up the middle of the river, which could not have been an accurate statement upon the fixed line theory.

Some stress has been laid upon the observations contained in the records of the Boundary Commissioners that the line they were fixing would be thenceforth invariable, but apart from the inconclusive character of this conversation, it seems clear that in making any remarks of this nature, the Boundary Commissioners were exceeding their mandate, and that their views as to the proper construction of the treaties under which they were working could not in any way bind their respective governments.

In November, 1856, the draft for the proposed report of the Boundary Commissioners for determining the boundary between Mexico and the United States under the Treaty of 1853 was submitted by the Secretary of the Interior of the United States to the Honorable Caleb Cushing for his opinion as to whether the boundary line under that treaty shifted with changes taking place in the bed of the river, or whether the line remained constant where the main course of the river ran as represented by the maps accompanying the report of the Commissioners. The opinion of Mr. Cushing is a valuable contribution to the subject by an authority on international law. After consideration of the provisions of the treaty, and an examination of a great number of authorities upon the subject, Mr. Cushing reported that the Rio Grande retained its function of an international boundary, notwithstanding changes brought about by accretion to one bank and the degradation of the other bank, but that, on the other hand, if the river deserted its original bed and forced for itself a new channel in another direction, then the nation through whose territory the river thus broke its way did not lose the land so separated; the international boundary in that case remaining in the middle of the deserted river bed.

This opinion was transmitted to the Mexican Legation at Washington and acknowledged by Senor Romero, then Mexican Ambassador at Washington, who, without in any way committing his Government, stated his own personal acquiescence in the principles enunciated as being equitable and founded upon the teachings of the most accredited expositors of international law. He further stated that he was transmitting a copy of the opinion to his Government. There does not appear to have been any expression of opinion by the Mexican Government at that time as to the soundness of the views expressed by the Hon. Mr. Cushing.

From the last mentioned date until the signing of the Convention of 1884 a considerable amount of diplomatic correspondence took place as to the meaning and effect of the boundary treaties of 1848 and 1853. Without going unto all the details of this correspondence, which has been fully discussed in the printed and oral arguments of the parties, it is sufficient to say that during that period, with the exception of certain statements contained in a letter of Mr. Frelinghuysen, which will be adverted to later, the Government of the United States consistently adhered to the principles enunciated by Attorney-General Cushing. On the Mexican side the correspondence reveals more fluctuations of opinion; the writers sometimes indicating their view that the boundary created by the treaties in question was a fixed line, but more frequently qualifying such statements by making an exception in the case of slow and successive increases resulting from alluvial deposits.

While considerable importance appeared to be attached by the parties to various expressions contained in this correspondence, the Commissioners, at an early stage in the argument, expressed their view that neither of the high contracting parties should be bound by the unguarded language contained in many of the letters. The only real importance to be attached to this correspondence is that it shows conclusively that a considerable doubt existed as to the meaning and effect of the boundary treaties of 1848 and 1853.

However strongly one might be disposed to think that the Treaty of 1848, taken by itself, or the Treaty of 1853, taken by itself, indicated an intention to establish a fixed line boundary, it would be difficult to say that the question is free from doubt, in view of the opinion expressed by so high an authority as the Hon. Mr. Cushing upon the very point at issue, and in view of the occasional concurrence in this opinion by some of the higher Mexican officials at the time it was given.

It is in consequence of this legitimate doubt as to the true construction of the boundary treaties of 1848 and 1853 that the subsequent course of conduct of the parties, and their formal conventions, may be resorted to as aids to construction. In the opinion of the majority of this Commission the language of the subsequent conventions, and the consistent course of conduct of the high contracting parties, is wholly incompatible with the existence of a fixed line boundary.

In 1884 the following boundary convention was concluded between the two republics:

Boundary Convention, Rio Grande and Rio Colorado*).

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The preamble of this convention states that it refers to those parts of the boundary line between the two countries *which follow the bed of the Rio Grande and the Rio Colorado*, and proceeds to explain that the

*) V. le Texte N. R. G. 2. s. XIII, p. 675.

portions of the dividing line between the two countries which follows the middle of the channel of the Rio Grande and the Rio Colorado are those mentioned in the Treaties of 1848 and 1853. The Convention thus seems to have been designed to apply to the whole of the Rio Grande in so far as the Treaties of 1848 and 1853 constitute this river as the dividing line between the two countries. The first article provides that the dividing line shall forever be that described in the aforesaid treaty, and follow the center of the normal channel of the rivers named, etc. This appears to be a clear recognition of the fact that the line which is, according to the agreement of the parties, to be henceforth their boundary line, is also that which was created by the former treaties. It is, to that extent, a declaratory article importing into the Treaties of 1848 and 1853 the construction which the parties had determined to adopt, as the preamble states, in order „to avoid difficulties which may arise through the changes of channel to which those rivers are subject through the operation of natural forces," and „to lay down rules for the determination of such questions."

On behalf of Mexico it has been strenuously contended that this convention was intended to operate in the future only, and that it should not be given a retroactive effect so as to apply to any changes which had previously occurred. Reference was made to a number of well-known authorities establishing the proposition that laws and treaties are not usually deemed to be retrospective in their effect. An equally well-known exception to this rule is that of laws or treaties which are intended to be declaratory, and which evidence the intention of putting an end to controversies by adopting a rule of construction applicable to laws or conventions which have been subject to dispute. The internal evidence contained in the Convention of 1884 appears to be sufficient to show an intention to apply the rules laid down for the determination of difficulties which might arise through the changes in the river Rio Grande, whether these changes had occurred prior to or after the convention, and they appear to have been intended to codify the rules for the interpretation of the previous Treaties of 1848 and 1853 which had formed the subject of diplomatic correspondence between the parties. While it is perfectly true that the convention was to be applied to *disputes* which might arise in future, it nowhere restricts these difficulties to future changes in the river. It expressly declares that by the Treaties of 1848 and 1853, the dividing line had followed the middle of the river, and that henceforth the same rule was to apply.

At the time this convention was signed all the great changes in the course of the Rio Grande had occurred, and practically the whole Chamizal tract had been formed. It appears, in fact, that the river of 1852 and the river of 1884 had no points in common, except points of intersection. It is quite true that the parties may not have been aware of the entire separation of the old river bed from the new, from El Paso down to the Gulf of Mexico, but the fact remains that all the great and visible changes which are reported to have taken place during the floods

extending from 1864 to 1868 had done their work, and, in the case of the Chamizal tract, the changes had been so considerable in the upper portion of the river, which is proved to have been less liable to modifications owing to the nature of its soil than the lower part of the river, that it formed the subject of much diplomatic correspondence.

Having regard to the existence of such notable changes in the river bed, it is obvious that the Convention of 1884 would have been nugatory and inapplicable upon the hypothesis of a fixed line boundary, for when once the river had moved away from the fixed line into the territory of one or other of the two nations it was idle and useless to provide for erosive or other changes which might subsequently occur in its bed, the river being *ex hypothesi*, wholly in the territory of one or other of the nations on either side of the supposed fixed boundary.

If any doubt could be entertained as to the intention of the parties in making this convention, it would disappear upon a consideration of the uniform and consistent manner in which it was subsequently declared by the two governments to apply to past as well as to future changes in the river.

Copious references were made by the parties to the diplomatic correspondence which preceded this convention, but these communications, when closely examined, are inconclusive and add little or nothing to the language of the treaty.

Equally inconclusive are the declarations made after the signing of the convention by high officers of States on both sides. For example, Senor Romero, on the 13th April, 1884, is reported to have said to the Mexican Department of Foreign Affairs that the treaty did not decide cases previous to its date, because it could not have retroactive effect, but could only be applied to such cases as might occur subsequently. On the other hand, the President of Mexico, in his message of April, 1891, recommending the adoption of the Convention of 1889, which created the Boundary Commission to carry out the provisions of the Convention of 1884, refers to the convention as being for the establishment of an international commission to study and determine *pending* boundary questions, or those which may arise by reason of the variation of the course of the river.

It would be useless to multiply citations from diplomatic correspondence, which is not always consistent, and which falls under the rule laid down by the Hague Tribunal in the recent award in the North Atlantic Coast Fisheries reference. Speaking of similar unguarded expressions contained in diplomatic correspondence the Presiding Commissioner expressed the following opinion, which seems applicable to a great many of the communications which have been relied upon by one or other of the parties in the present case:

The Tribunal, unwilling to invest such expressions with an importance entitling them to affect the general question, considers that such conflicting or inconsistent expressions as have been exposed on either side

are sufficiently explained by their relations to ephemeral phases of a controversy of almost secular duration, and should be held to be without direct effect on the principal and present issues.

The same considerations apply to the correspondence with reference to a claim to Morteritors Island, on which considerable reliance was placed by Mexican counsel as showing the abandonment of the United States of the view set forth in Attorney General Cushing's opinion, and an acceptance of the fixed line theory. Without discussing the details of this case, it is sufficient to say that the decision arrived at was in no way based upon the fixed boundary theory, but was a conclusion which was inevitable from the application of the Treaties of 1848 to 1853. It is contended, however, that certain expressions used by Mr. Secretary Frelinghuysen in his correspondence with the Mexican Government, when he was resisting the Mexican claim, are inconsistent with the idea of a fluvial boundary, and can only be explained on the theory that Mr. Frelinghuysen believed in the existence of a fixed boundary. Viewed in connection with the facts of the case, these expressions scarcely bear the interpretation which the Mexican counsel desire to put upon them, but even assuming that in the course of his argument on behalf of his department, Mr. Frelinghuysen committed himself to the theory that the United States could not recognize the annexation of its territory by accretion, such casual and unguarded language, which was certainly not relevant to the decision of the case upon the facts actually proved, could not bind his government any more than similar expressions used by Mexican high officials, above referred to, could bind their government.

Far more conclusive is the course of action entered upon and persistently followed by both nations upon the appointment of the Boundary Commission of 1889.

In 1893, a dispute arose in a case known as the „Banco de Camargo", which involved a claim that the land had formed by gradual erosion and deposit of alluvium since 1865. After a correspondence between Senor Mariscal and the United States Minister, in which they refer to the Convention of 1884, it was decided to bring the case, along with similar ones, before the attention of the Boundary Commission, when organized. Upon the organization of the commission the case was duly submitted, and the commission found that the erosion in question dated back to the year 1865, and applied the provisions of the Convention of 1884 to its solution.

In 1893 a dispute arose as to the arrest of American citizens on land which was claimed by citizens of both nations, and which had formed on the edge of the river prior to 1884. The two governments thereupon agreed to refer the matter to the International Boundary Commission, which was organized for work on the 4th January, 1894.

In the case of the „Banco de Vela", a claim based upon accretions which began in 1853, the matter was also referred to the boundary commission.

In the case of the „Banco de Granjeno“, under circumstances which were similar, the accretions having begun in 1853, the controversy was referred to and dealt with by the same commission.

In the case of the „Banco de Santa Margarita“, an analogous condition existed, and a similar disposition of the case was made.

The bancos above referred to were formed by accretions to land on one side of the river, with erosions on the other side, until the channel ran on a curve, and a time came when the force of the current made a new channel, leaving a banco between the new and old channel.

In dealing with the above cases the commissioners, in a joint report dated 15th January, 1895, concluded that the application of the Treaty of 1884 to these bancos would be inconvenient and would create difficulties which had not been foreseen. They accordingly recommended the elimination of the bancos from the Convention of 1884 and the signing of a special agreement with reference thereto.

As a result of this report, a convention was formally signed in 1905,*) which clearly acknowledges the application of Article II of the Convention of 1884 to fifty-eight bancos which had been surveyed and described in the report of the consulting engineers.

The convention further recites „That the application to these bancos of the principle established in Article II of the Convention of 1884 renders difficult the solution of the controversies mentioned, and, instead of simplifying, complicates the said boundary line between the two countries,“ and provides that these bancos, together with those which may in future be formed, shall be eliminated from the operation of the Convention of 1884, and shall be dealt with in a different manner.

This recognition of the retrospective application of the Convention of 1884 is not that of subordinates, but of the governments themselves, which expressly adopted the views of the commissioners as to the application of the Treaty of 1884 and as to the desirability of taking such cases, both past and future, out of the convention and substituting new provisions.

In 1895 the Chamizal claim was submitted to the commission in a letter of Mr. Mariscal, above referred to. While the claim is a private one, there is no doubt that it was presented with the authority and concurrence of the Mexican Government and received its support throughout its various stages as involving a controversy as to the international title to the Chamizal tract. The claim of Pedro Y. Garcia, on its face, showed that it was based on changes which had occurred in the river prior to 1884, and notwithstanding this well-known fact, the matter was referred to the International Boundary Commission to be dealt with, and would have been disposed of but for a disagreement between the two commissioners, one of whom considered that the changes had resulted from slow and gradual erosion, as required by the Convention of 1884, while the

*) Convention du 20 mars 1905; N. R. G. 3. s. I, p. 299.

other commissioner considered that the erosion had been violent and intermittent and not of such a character as, under the terms of the Convention of 1884, could change the international boundary.

While the Chamizal case was pending before the International Boundary Commission, they became seized of the controversy concerning the Island of San Elizario, which was presented to the commission by the Mexican Commissioner on the 4th November, 1895. The decision in this case, rendered on the 5th October, 1896, was based upon changes which occurred in the years 1857 and 1858. Like all other decisions of the boundary commission, it was communicated to the Mexican Government, which, under the terms of the Convention of 1889, could disapprove of the action of the commissioners within one month from the day of its pronouncement. Far from being disallowed, the decision was expressly approved by the Mexican Government, as appears from the letter addressed by Mr. Mariscal to the Mexican Minister at Washington on 5th October, 1896.

Thus in all cases dealt with by the two governments after the Convention of 1884 referring to river changes occurring prior to that date, the provisions of that convention were invariably and consistently applied.

On the whole, it appears to be impossible to come to any other conclusion than that the two nations have, by their subsequent treaties and their consistent course of conduct in connection with all cases arising thereunder, put such an authoritative interpretation upon the language of the Treaties of 1848 and 1853 as to preclude them from now contending that the fluvial portion of the boundary created by those treaties is a fixed line boundary.

The Presiding Commissioner and the American Commissioner therefore hold that the Treaties of 1848 and 1853, as interpreted by subsequent conventions between the parties and by their course of conduct, created an arcifinious boundary, and that the Convention of 1884 was intended to be and was made retroactive by the high contracting parties.

(Mr. Commissioner Puga dissents from this holding for the reasons set forth in his subjoined opinion.)

Prescription.

In the countercase of the United States, the contention is advanced that the United States has acquired a good title by prescription to the tract in dispute, in addition to its title under treaty provisions.

In the argument it is contended that the Republic of Mexico is estopped from asserting the national title over the territory known as „El Chamizal" by reason of the undisturbed, uninterrupted, and unchallenged possession of said territory by the United States of America since the Treaty of Guadalupe Hidalgo.

Without thinking it necessary to discuss the very controversial question as to whether the right of prescription invoked by the United States is an accepted principle of the law of nations, in the absence of any convention establishing a term of prescription, the commissioners are

unanimous in coming to the conclusion that the possession of the United States in the present case was not of such a character as to found a prescriptive title. Upon the evidence adduced it is impossible to hold that the possession of El Chamizal by the United States was undisturbed, uninterrupted and unchallenged from the date of the Treaty of Guadalupe Hidalgo in 1848 until the year 1895, when, in consequence of the creation of a competent tribunal to decide the question, the Chamizal case was first presented. On the contrary it may be said that the physical possession taken by citizens of the United States and the political control exercised by the local and federal governments, have been constantly challenged and questioned by the Republic of Mexico, through its accredited diplomatic agents.

As early as 1856, the river changes threatening the valley of El Paso had caused anxious inquiries, which resulted in a reference of the matter to the Hon. Caleb Cushing for his opinion.

In January, 1867, Don Matias Romero forwarded to Mr. Seward, Secretary of State, a communication from the perfecture of Brazos relating to the controversy between the people of El Paso del Norte (now Juarez) and the people of Franklin (now El Paso, Texas) over the Chamizal tract, then in process of formation. From that time until the negotiation of the Convention of 1884, a considerable amount of diplomatic correspondence is devoted to this very question, and the Convention of 1884, was an endeavor to fix the rights of the two nations with respect to the changes brought about by the action of the waters of the Rio Grande.

The very existence of that convention precludes the United States from acquiring by prescription against the terms of their title and, as has been pointed out above, the two republics have ever since the signing of that convention treated it as a source of all their rights in respect of accretion to the territory on one side or the other of the river.

Another characteristic of possession serving as a foundation for prescription is that it should be peaceable. In one of the affidavits filed by the United States to prove their possession and control over the Chamizal district (that of Mr. Coldwell) we find the following significant statement:

In 1874 or 1875 I was present at an interview between my father and Mr. Jesus Necobar y Armendariz, then Mexican Collector of Customs at Paso del Norte, now Ciudad Juarez, which meeting took place at my father's office on this side of the river.

Mr. Necobar asked my father for permission to station a Mexican Custom House officer on the road leading from El Paso to Juarez, about 200 or 300 yards north of the river. My father replied in substance that he had no authority to grant any such permission, and even if he had, and granted permission, it would not be safe for a Mexican Customs officer to attempt to exercise any authority on this side of the river.

It is quite clear from the circumstances related in this affidavit that however much the Mexicans may have desired to take physical possession of the district, the result of any attempt to do so would have provoked

scenes of violence and the Republic of Mexico can not be blamed for resorting to the milder forms of protest contained in its diplomatic correspondence.

In private law, the interruption of prescription is effected by a suit, but in dealings between nations this is of course impossible, unless and until an international tribunal is established for such purpose. In the present case, the Mexican claim was asserted before the International Boundary Commission within a reasonable time after it commenced to exercise its functions, and prior to that date the Mexican Government had done all that could be reasonably required of it by way of protest against the alleged encroachment.

Under these circumstances the Commissioners have no difficulty in coming to the conclusion that the plea of prescription should be dismissed.

Application of the Convention of 1884.

Upon the application of the Convention of 1884 to the facts of this case the commissioners ar unable to agree.

The Presiding Commissioner and the Mexican Commissioner are of the opinion that the evidence establishes that from 1852 to 1864 the changes in the river, which during that interval formed a portion of the Chamizal tract, were caused by slow and gradual erosion and deposit of alluvium within the meaning of Article I of the Convention of 1884.

They are further of opinion that all the changes which have taken place in the Chamizal district from 1852 up to the present date have not resulted from any change of bed of the river. It is sufficiently shown that the Mexican bank opposite the Chamizal tract was at all times high and that it was never overflowed, and there is no evidence tending to show that the Rio Grande in that vicinity ever abandoned its existing bed and opened a new one. The changes, such as they were, resulted from the degradation of the Mexican bank, and the alluvial deposits formed on the American bank, and as has been said, up to 1864 this erosion and deposit appears to come within Article I of the Convention of 1884.

With respect to the nature of the changes which occurred in 1864, and during the four succeeding years, the Presiding Commissioner and the Mexican Commissioner are of opinion that the phenomena described by the witnesses as having occurred during that period can not properly be described as alterations in the river effected through the slow and gradual erosion and deposit of alluvium.

The following extracts from the evidence are quoted by the Presiding Commissioner and the Mexican Commissioner in support of their views:

Jesus Serna—Q. When the change took place was it slow or violent?—A. The change was violent, and destroyed the trees, crops and houses.

Ynocente Ochoa—Q. When the change took place was it slow or violent?—A. As I said before, it was sometimes slow and sometimes

violent, and with such force that the noise of the banks falling seemed like the boom of cannon, and it was frightful.

E. Provincio—Q. Explain how you know what you have stated.—A. Because the violent changes of the river in 1864 caused considerable alarm to the city, and the people went to the banks of the river and pulled down trees and tried to check the advance of the waters. I was there sometimes to help and sometimes simply to observe. I helped to take out furniture from houses in danger and to remove beams of houses, etc.

Q. When the change took place was it slow or violent?—A. I cannot appreciate what is meant by slow or violent, but sometimes as much as fifty yards would be washed away at certain points in a day.

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Q. Please describe the destruction of the bank on the Mexican side that you spoke of in your former testimony. Describe the size of the pieces of earth that you saw fall into the river.—A. When the river made the alarming change it carried away pieces of earth one yard, two yards, etc., constantly, in intervals of a few minutes. At the time of these changes the people would be standing on the banks watching a piece going down, and somebody would call „look out, there is more going to fall" and they would have to jump back to keep from falling into the river.

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Q. Do you think that those works were constructed to protect against the slow and gradual work of the river or against the floods?—A. They were made to protect the town from being carried away in the event of another flood like that of '64, because the curve that the river had made was dangerous to the town.

Jose M. Flores—Q. Did the current come with such violence between 1864 and 1868 that houses and fields were destroyed?— A. Yes, sir.

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Q. Please describe the manner of the tearing away of the Mexican bank by the current when these changes were taking place.—A. The current carried the sand from the bank and cut in under, and then these pieces would fall into the water. If the bank was very high it took larger pieces; say two yards, never more than three yards wide, and where the banks were low it took smaller pieces.

Doctor Mariano Samanieco describes the violence of the change as follows: „The changes were to such a degree that at times during the night the river would wear away from fifty to one hundred yards. There were instances in which people living in houses distant fifty yards from the banks on one evening had to fly in the morning from the place on account of the encroachments of the river, and on many occasions they had no time to cut down their wheat or other crops. It carried away forests without giving time to the people to cut the trees down.

Q. Of the changes of the river that you have mentioned, were they all perceptible to the eye?—A. Yes, sir.

The Presiding Commissioner and the Mexican Commissioner consider that the changes referred to in this testimony can not by any stretch of the imagination, or elasticity of language, be characterized as slow and gradual erosion.

The case of *Nebraska* v. *Iowa* (143 U. S. 359), decided by the Supreme Court of the United States in 1892, is clearly distinguishable from the present case. In *Nebraska* v. *Iowa* the court, applying the ordinary rules of international law to a fluvial boundary between two States, hold that while there might be an instantaneous and obvious dropping into the Missouri River of quite a portion of its banks, and while the disappearance, by reason of this process, of a mass of bank might be sudden and obvious, the accretion to the other side was always gradual and by the imperceptible deposit of floating particles of earth. The conclusion was, therefore, that notwithstanding the rapidity of the changes in the course of the channel, and the washing from the one side onto the other, the law of accretion controlled on the Missouri River, as elsewhere.

In the present case, however, while the accretion may have been slow and gradual, the parties have expressly contracted that not only the accretion, but the erosion, must be slow and gradual. The Convention of 1884 expressly adopts a rule of construction which is to be applied to the fluvial boundary created by the Treaties of 1848 and 1853, and this rule is manifestly different from that which was applied in the case of *Nebraska* v. *Iowa,* in which the court was not dealing with a special contract. If it had been called upon, in the case just cited, to decide whether the degradation of the bank of the Missouri River had occurred through a slow and gradual process the answer would undoubtedly have been in the negative.

In the case of *St. Louis* v. *Rutz* (138 U. S., 226) the Supreme Court of the United States, dealing with facts very similar to those established by the evidence in the present case, found that the washing away of the bank of the Mississippi River did not take place slowly and imperceptibly, but, on the contrary, the caving in and washing away of the same was rapid and perceptible in its progress; that such washing away of said river bank occurred principally at the rises or floods of high water in the Mississippi River, which usually occurred in the spring of the year; that such rises or floods varied in their duration, lasting from four to eight weeks before the waters of the river would subside to their ordinary stage or level; that during each flood there was usually carried away a strip of land from off said river bank from 240 to 300 feet in width, which loss of land could be seen and perceived in its progress; that as much as a city block would be cut off and washed away in a day or two, and that blocks or masses of earth from ten to fifteen feet in width frequently caved in and were carried away at one time.

If the degradation of the bank of the Mississippi River, above described, was found by the Supreme Court not to be slow and imperceptible progress, it is difficult to understand how the destruction of land, houses

and forests, described by the witnesses in the present case, can be regarded as examples of slow and gradual erosion.

Nor can the Presiding Commissioner and the Mexican Commissioner give effect to the contention that Mexico must be held to have put a construction on the words „slow and gradual" in the preamble of the Banco Treaty of 1905, which adopted the report of the commissioners stating that the changes producing the bancos were due to slow and gradual erosion coupled with avulsion, although it is alleged by the United States that the erosion in that case was even more violent than that which occurred at the Chamizal. The report rendered by the commissioners to their respective governments in no way discloses any facts tending to show the nature and extent of the erosive changes, and properly so, because that was not material to the question to be decided. It is true that, by making a minute examination of the plans accompanying the report, the actual extent of the erosive changes might have been ascertained, but there certainly was nothing in the question submitted to the governments for solution to necessitate, or even suggest, such an inquiry.

It has also been contended on behalf of the United States that before the signing of the Treaty of 1905, the Mexican Government had received the opinion of the American commissioner in the Chamizal case, which asserted that if the erosion in Chamizal was not slow and gradual, then *a fortiori* the erosion which had formed the bancos in the lower part of the river could not be slow and gradual. The effect of this assertion on the part of the American Commissioner, however, was counteracted by the reply of the Mexican Commissioner, who argued that there was no similarity between the two cases and no inconsistency between his report on the bancos and his attitude in the Chamizal case. Under these circumstances it is reasonable to conclude that the Mexican Government adopted the view of their commissioner, and in any event, it cannot be successfully contended that in assenting to the language of the preamble of the Banco Treaty it was precluded from contending that the Chamizal case was of a different nature.

It has been suggested, and the American Commissioner is of opinion, that the bed of the Rio Grande as it existed in 1864, before the flood, can not be located, and moreover that the present Commissioners are not authorized by the Convention of the 5th December, 1910, to divide the Chamizal tract and attribute a portion thereof to the United States and another portion to Mexico. The Presiding Commissioner and The Mexican Commissioner can not assent to this view and conceive that in dividing the tract in question between the parties, according to the evidence as they appreciate it, they are following the precedent laid down by the Supreme Court of the United States in *Nebraska* v. *Iowa,* above cited. In that case the court found that up to the year 1877 the changes in the Missouri River were due to accretion, and that, in that year, the river made for itself a new channel. Upon these findings it was held that the boundary between Iowa and Nebraska was a varying line in so far as affected by

accretion, but that from and after 1877 the boundary was not changed, and remained as it was before the cutting of a new channel. Applying this principle, *mutatis mutandis*, to the present case, the Presiding Commissioner and Mexican Commissioner are of opinion that the accretions which occurred in the Chamizal tract up to the time of the great flood in 1864 should be awarded to the United States of America, and that inasmuch as the changes which occurred in that year did not constitute slow and gradual erosion within the meaning of the Convention of 1884, the balance of the tract should be awarded to Mexico.

They also conceive that it is not within their province to relocate that line, inasmuch as the parties have offered no evidence to enable the Commissioners to do so. In the case of *Nebraska* v. *Iowa* the court contented itself with indicating, as above stated, the boundary between the two States and invited the parties to agree to a designation of the boundary upon the principles enunciated in the decision.

The American Commissioner dissents from the above holding, for the reasons given in his subjoined memorandum, and is of opinion that all the changes which have taken place at the Chamizal since 1852 were due to slow and gradual erosion and deposit of alluvium, within the meaning of the Convention of 1884.

He is further of opinion that the Commissioners have no jurisdiction to separate the Chamizal tract, and award a portion to the United States and a portion to Mexico, and, in view of his conviction that the position of the river bed in 1864 can not be ascertained, he considers that the award of the majority of the Commissioners can not be made effective.

Wherefore the Presiding Commissioner and the Mexican Commissioner, constituting a majority of the said Commission, hereby award and declare that the international title to the portion of the Chamizal tract lying between the middle of the bed of the Rio Grande, as surveyed by Emory and Salazar in 1852, and the middle of the bed of the said river as it existed before the flood of 1864, is in the United States of America, and the international title to the balance of the said Chamizal tract is in the United States of Mexico.

The American Commissioner dissents from the above award.

El Paso, 15th June, 1911.

(Signed) *E. Lafleur,*
Anson Mills,
F. B. Puga.

Dissenting opinion of the American commissioner.

The American Commissioner concurs in the findings of the Presiding Commissioner to the effect that the Treaties of 1848 and 1853 did not establish a fixed and invariable line; that the Treaty of 1884 was retroactive, and in the finding of the Presiding Commissioner and the Mexican Commissioner to the effect that the United States has not established a

title to the Chamizal tract by prescription. He is compelled to dissent *in toto* from so much of the opinion and award as assumes to segregate the Chamizal tract and to divide the parts so segregated between the two nations, and from that part of the opinion and award which holds that a portion of the Chamizal tract was not formed through „slow and gradual erosion and deposit of alluvium“ within the terms of the Treaty of 1884.

The reasons for the dissent are threefold: First, because in his opinion, the Commission is wholly without jurisdiction to segregate the tract or to make other findings concerning the change at El Chamizal than „to decide whether it has occurred through avulsion or erosion, for the effects of articles 1 and 2 of the Convention of November 12, 1884“, (and article 4, Convention of 1889). Secondly, because, in his opinion, the Convention of 1884 is not susceptible to any other construction than that the change of the river at El Chamizal was embraced within the first alternative of the Treaty of 1884. And, thirdly, because, in his opinion, the finding and award is vague, indeterminate and uncertain in its terms and impossible of execution.

Division of tract a departure from Convention of 1910.

In the judgment of the American Commissioner, articles 1 and 3 of the Convention of June 24, 1910, providing for the present arbitration, submit to this Commission the question as to the international title of the Chamizal tract in its entirety and this question only. Article I of the convention bounds the Chamizal tract with technical accuracy, while article 3 provides that „the Commission shall decide solely and exclusively as to whether the international title to the Chamizal tract is in the United States of America or Mexico“.

It is believed that by those provisions, when read together, the two governments have asked this Commission a specific and definite question and that the Commission is „solely and exclusively“ empowered and required to give a specific and definite answer—either that the international title to the Chamizal tract as defined in the convention is in the United States or that it is in Mexico. The *prima facie* meaning of the language of the convention is reinforced when the convention is read in the light of the history of the controversy which called it into being, and in the light of the conduct of the two parties before this Commission. From Senor Romero's note of January 9, 1867 (U. S. Case App., p. 553) which is, so far as appears, the first reference to what is now known as the Chamizal tract in the correspondence between the two governments, down to the concluding arguments before this Commission on June 2nd last, there is not the slightest suggestion on the part of either of the two governments that there could be any question of a division of the tract. The Presiding Commissioner was the first to raise the question of a division of the tract in connection with another point which was under discussion by counsel for the United States. (Record, pp. 430, 432.) Sub-

sequently, counsel for Mexico defined the attitude of Mexico as to the issue before the Tribunal in the following language:

In answer to that (*i. e.*, the suggestion that no monuments were fixed) I have but to remind this Court that the Treaty of 1910 says that the monuments are fixed, says that the line was run, tells this Court where to find it and says that either that is the line between this country and Mexico or the present channel of the Rio Grande, as it runs is the line. (Record, p. 500.)

Thereafter, counsel for the United States recurred to the question and specifically took the position that the only question before the Tribunal was as to the international title to the tract in its entirety, called attention to the evident agreement of the parties upon this point, and pointed out that a decree segregating the tract „would be a departure from the terms of the convention.“ (Record, pp. 535, 536.)

Even in ordinary tribunals of general jurisdiction it is regarded as a dangerous practice for the court to award a decree not solicited or endorsed by counsel for either party. Is not this danger accentuated when an international tribunal, which has no powers except those conferred upon it by the terms of the submission under which it sits, assumes to raise and answer a question never suggested by the parties in the course of negotiations extending over fifty years, and not indorsed by either party in argument when suggested from the bench? Particularly is this true when it can be asserted without fear of contradiction that if there had been the slightest idea in the minds of the negotiators of the Treaty of June 24, 1910, that it was susceptible of the construction which has been placed upon it by the majority of the Commission, the possibility of such an unfortunate result would have been eliminated in even more precise and affirmative language.

The Commissioner for the United States is unable to understand the force of the reference in the opinion of the Presiding Commissioner, to the case of *Nebraska* v. *Iowa* as a „precedent“ for „dividing the tract in question between the parties“. There is an apparent difference between the powers of the Supreme Court of the United States, acting under the provisions of the Constitution of the United States, conferring general and original jurisdiction in controversies between States, on a bill and cross bill in equity to establish a disputed boundary line between two States, and this Commission with powers and jurisdiction strictly limited by the conventions which have called it into being. Indeed, the opinion of the majority of the Commission seems to recognize this distinction in another connection in stating the proposition, in which the American Commissioner concurs, that the present Commission, unlike the Supreme Court in *Nebraska* v. *Iowa,* is bound by the terms of the Convention of 1884. It is also bound by the terms of the Convention of 1910.

It is axiomatic that „a clear departure from the terms of the reference“ (Twiss, *The Law of Nations* 2[d] ed., 1875, p. 8) invalidates an international award, and the American Commissioner is constrained to believe

that such a departure has been committed by the majority of the Commission in this case in dividing the Chamizal tract and deciding a question not submitted by the parties.

Two Kinds of Erosion a Departure from Convention of 1884.

But this is not all; as the Hague Court recently pointed out in the case of the Orinoco Steamship Company, „excessive exercise of power may consist not only in deciding a question not submitted to the arbitrators, but also in misinterpreting the express provisions of the agreement in respect of the way in which they are to reach their decisions, notably with regard to the legislation or the principles of law to be applied.“ (*United States* v. *Venezuela*, before the Hague Court. *American Journal of International Law,* Vol. 5, No. 1, pp. 232 and 233.)*)

The preamble of the Convention of June 24, 1910, prescribed the law which governs this Commission, namely, „the various treaties and conventions now existing between the two countries and — — — the principles of international law.“ The Commission has held the Convention of 1884 retroactive and therefore in general applicable to this case. While the Convention of 1884 purports to cover all changes that may occur in the course of the Rio Grande and the Rio Colorado where they constitute a boundary between the United States and Mexico, it nevertheless makes provision for but two methods of effecting such changes, or rather distinguishes the changes which may occur into two distinct classes, viz.: one covers alterations in the banks or the course of those rivers, effected by natural causes through the slow and gradual erosion and deposit of alluvium, and the other covers „any other change wrought by the force of the current, whether by the cutting of a new bed, or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made in 1852.“

The American Commissioner deems it unnecessary to examine further into the question of the cutting or deepening of a new bed since the Presiding Commissioner and the Mexican Commissioner have found that no change which has taken place opposite the Chamizal tract since 1852 has resulted „from any change of bed of the river“ (Opinion, p. 29 [*supra,* pp. 84, 85]) and in that finding the American Commissioner concurs.

The Commissioner for the United States does deem it proper, however, to point out that the language of Article II of the Convention of 1884 makes no provisions respecting the boundary in the event of any other change of the river than that embraced in „the cutting of a new bed“ or the „deepening of another channel than that which marked the boundary at the time of the survey“ of 1852.

It is true that Article II of the convention begins with the words „any other change wrought by the force of the current,“ but those words are immediately followed by the provision „whether by the cutting of a

*) V. **N. R. G.** 3. s. IV, p. 82.

new bed, or when there is more than one channel by the deepening of another channel than that which formed the boundary at the time of the survey made under the aforesaid treaty.“

It is a rule of interpretation which the Supreme Court of the United States says to be „of universal application“ (*United States* v. *Arredondo*, 6 Pet., 691) that „where specific and general terms of the same nature are embraced in the statute, whether the latter precede or follow the former, the general terms take their meaning from the specific and are presumed to embrace only things or persons designated by them“. (*Fontonct* v. *The State*, 112 La., 628, 36 So. Rep., 630.)

Authorities to support this proposition might be adduced without number, but reference will be made to a few: *U. S.* v. *Bevans*, 3 Wheat., at p. 390; *Moore* v. *American Transportation Co.*, 24 Howard, 1—41; *U. S.* v. *Irwin*, Federal Cases No. 14,445; Supreme Court of Ky. in *City of Covington* v. *McNicholas Heirs*, 57 Ky., 262; *Rogers* v. *Boiller*, 3 Mart. O. S. 665; *City of St. Louis* v. *Laughlin*, 49 Mo. 559; *Brandon* v. *Davis*, 2 Leg. Rec. 142; *Felt* v. *Felt*, 19 Wis. 183, also *State* v. *Gootz*, 22 Wis. 363; *Gaither* v. *Green*, 40 La. Ann. 362; 4 So. Rep. 210; *Phillips* v. *Christian Co.*, 87 Ill. App. 481; *In re Rouse, Hazzard & Co.*, 91 Fed. Rep. 96; *Barbour* v. *City of Louisville*, 83 Ky. 95; *Townsend Gas & Electric Co.* v. *Hill*, 64 Pac. Rep. 778, 24 Wash. 369; *State* v. *Hobe*, 82 N. W. Rep. 336, 106 Wis. 411.

In *Regina* v. *France*, 7 Quebec, Q. B., 83, it is stated that:

It is immaterial, it has been held, whether the generic term precedes or follows the specific terms which are used. In either case the general word must take its meaning and be presumed to embrace only things or persons of the kind designated in the specific words. (Quoted from Am. & Eng. Enc. of Law, Vol. 26, p. 610, under caption „Statute“.)

Did the United States abandon vested rights?

Not only does the language of Article II confine its meaning to specific changes of channel described therein, but the fifth article of the same convention makes provision for the protection of property rights „in respect of lands which may have become separated through the creation of new channels as defined in Article II,“ but it makes no provision whatever for the protection of property rights in contemplation of any other change in the course of the river, much less does it make such provision as to lands degradated by rapid and violent erosion. It was suggested by the Honorable Presiding Commissioner during the argument of this case that no provision was necessary to protect private rights in case the land was carried away by any character of erosion because the property itself was destroyed and no private rights could remain. (Record, pp. 704, 705.) In this proposition the United States Commissioner concurs, but he is wholly at loss to discover how a public or international title could remain in property that was so effectually destroyed as to annihilate private rights. Even supposing it was unnecessary to protect

private rights on the banks thus degraded, would no idea have suggested itself with regard to the rights of those who had taken up their residence on the other side, for instance, at El Chamizal, or at Santa Cruz Point? As suggested by the Presiding Commissioner, „all the great changes in the course of the Rio Grande had occurred, and practically the whole Chamizal tract had been formed — — — but the fact remains that all the great and visible changes which are reported to have taken place during the floods extending from 1864 to 1868 had done their work, and, in the case of the Chamizal tract, the changes had been so considerable in the upper portion of the river, which is proved to have been less liable to modifications owing to the nature of its soil than the lower part of the river, that it formed the subject of much diplomatic correspondence.“ (Opinion, p. 20 [*supra*, p. 78, 79].) And yet the record in the case discloses that every foot of the accretion at El Chamizal had been occupied prior to 1884 under color of American title. (See official map of El Paso, Texas, 1881, U. S. Countercase, Portfolio, Map No. 10; also Act incorporating the city of El Paso, U. S. Countercase, p. 139, and Patents of the State of Texas and Minutes of the City Council of the City of El Paso, U. S. Countercase, pp. 139—168.)

The Supreme Court of the United States, in the case of *United States* v. *Arredondo*, *supra*, says:

That it has been very truly urged by the counsel of the defendant in error that it is the usage of all the civilized nations of the world, when territory is ceded, to stipulate for the property of its inhabitants. An article to secure this object, so deservedly held sacred in the view of policy as well as of justice and humanity, is always required and never refused.

And further in that case the court, in alluding to the treaty between the United States and Spain, concluded on the 27th of October 1795,*) said:

Had Spain considered herself as ceding territory, she could not have neglected a stipulation which every sentiment of justice and national honor would have demanded, and which the United States could not have refused.

Under the fluvial boundary, which this Commission has held the Treaties of 1848 and 1853 created, a title had vested in the United States and the citizens thereof in all accretions to the Chamizal, tract under the recognized principles of international law. If the language of the Convention of 1884 recognized in Mexico or its citizens any right in any portion of such accretions, however formed, the United States divested itself and its citizens of rights which international law had given them and yet the United States did, if the opinion of the majority of this Commission is correct, neglect „a stipulation which every sentiment of justice and national honor would have demanded, and which the United States [Mexico] could not have refused.“

*) V. R. VI, p. 560; R. 2. VI, p. 142.

Vattel says (Law of Nations, Book I, chap. 2, sec. 17):

The body of a nation can not then abandon a province, a town, or even a single individual who is a part of it, unless compelled to it by necessity, or indispensably obligated to it by the strongest reasons founded on the public safety.

The foregoing views are in entire accord with the opinion of the Mexican Commissioner as expressed in the second paragraph of the dissenting opinion.

What Law governs?

The Commissioner for the United States has been unable to discover, although he has made a careful study of the opinion of the majority of the Commission, under what provision of the Convention of 1884 it is conceived that Mexico can be entitled to any portion of the Chamizal tract, the formation of which may be ascribed to any character of erosion, whether slow and gradual or rapid and violent. Had the Commissioner for the United States been able to expel from his mind and to disregard the language of the Treaties of 1889 and 1905, had he been able to forget and disregard the construction which has been placed upon Article I of the Convention of 1884 by the International Boundary Commission since its organization in 1893, and had he been wholly uninfluenced by the fact that counsel for Mexico as well as counsel for the United States were agreed that the Convention of 1884 embraced but two classes of changes as hereinbefore set forth (Record, p. 608), he might have been able to concur with the majority of the Commission that the degradation of the Mexican bank of the river at some uncertain points and at some uncertain times was not within the meaning of Article I of the Treaty of 1884, but the Commissioner for the United States does not believe that by any stretch of the imagination or any elasticity of the law, any character of erosion and deposit can be brought within the meaning of Article II of that convention. Therefore, the result must have been the same; if the change which occurred at El Chamizal was not within the meaning of either Article I or II of the Convention of 1884, then said convention becomes inapplicable and we must look to the principles of international law for the rule which is to govern our action. But it is admitted both in the language of the Commission as embodied in the record of our hearing (Record, pp. 203, 300) as well as in the printed argument of counsel for Mexico (Mexican Argument, p. 31) that under the principles of international law the change in the course of the river due to erosion and deposit would carry the boundary line with it, no matter how rapid might be the degradation of one bank by erosion, provided only that the growth of the other bank was accomplished by gradual deposit of alluvium, and such the American Commissioner conceives to be the undisputed evidence and the admitted facts of this case.

The precise language in which the learned agent of Mexico sets forth his position upon this point is so significant as to deserve quotation:

In fact, the Convention only occupied itself with two classes of alterations or changes of the bank and channel of the river; one, that originated by the slow and gradual erosion of one bank and the deposit of alluvium, and the other by the abandonment of an old bed and the opening of a new one. (Record, p. 203.)

In view of the foregoing, the Commissioner for the United States can not but regard it as unfortunate that the Commission should have indicated no desire to hear further argument on this point (as appears in the record of the hearing at pp. 608—614), where the Commission indicated that it scarcely seemed desirable to pursue this point since counsel for both sides seemed agreed that the Convention of 1884 embraced but two classes of changes, because he ventures to believe that counsel for the United States would have convinced the Commission that it must assign the change at El Chamizal to the first alternative in Article I of the Convention of 1884, or else disregard the Convention of 1884 entirely and decide the case upon the principles of international law.

In the Opinion of the Presiding Commissioner (Opinion p. 33 [*supra*, p. 86]) reference has been made to the case of the *City of St. Louis* v. *Rutz* (138 U. S., 226), and it is stated that the facts in that case are very similar to those established by the evidence in the present case. But with all respect, the American Commissioner submits that while the rapid degradation of the east bank of the Mississippi River, as described in that case, is very similar to the erosion that is shown to have occurred at certain or rather uncertain points opposite El Chamizal, the vital facts in that case and the present case are very different. In that case the evidence disclosed a rapid degradation of the east bank of the river and the complete submergence for several years of that portion of plaintiff's surveys. Subsequently an island formed on the east side of the thread of the river and that island became joined by accretion to plaintiff's surveys. The court held that under the laws of Illinois the plaintiff owned in fee simple that portion of the river bed lying east of the thread of the stream and that when new land formed east of the thread of the stream it belonged to the former owner. The court makes very clear that the ground of its decision is that the holder of the Missouri title on the west bank could not own the land which thus appeared first by an island formation and subsequently by accretion thereto *east* of the thread of the stream.

An analogous case would have been presented here if after the river had invaded Mexican territory by rapid erosion, making for itself a bed five hundred yards wide, as one witness testified it did (U. S. Case, App., p. 118), an island had subsequently arisen to the south of the thread of the stream. That island would have belonged to Mexico whether it subsequently became joined to the south bank or not, or even though it might have become joined by accretion after its formation to the north bank, but there is not a suggestion in the evidence that such a fact ever occurred. On the contrary, the evidence indisputably shows that the north bank did

not even move south simultaneously with the destruction of the south bank but that it grew up in a long course of years by the slow and gradual deposit of alluvium.

The American Commissioner is constrained to hold, therefore, that the majority of the Commission have failed to apply to the case the express rules laid down by the Convention of 1884; and by this failure have departed from the terms of the submission and invalidated the award.

A Departure from the Convention of 1889.

In the opinion of the American Commissioner this failure becomes the more manifest by reference to the terms of Article 4 of the Convention of 1889, to which, supplemented by the Convention of 1910, this Commission owes its life. By that article, the very law of its being, this Commission when considering any alteration in the course of the river named, is confined „to decide whether it has occurred through avulsion or erosion, for the effects of articles 1 and 2 of the Convention of November 12, 1884." The American Commissioner conceives that this provision was not only declaratory and interpretative of the changes contemplated by the Convention of 1884, but that said clause is jurisdictional in so far as the powers of this Commission are concerned.

In the opinion of the American Commissioner, the two governments in the preamble of the Banco Treaty of 1905 again placed an authoritative interpretation upon the words „slow and gradual" in the Convention of 1884. In that treaty the two governments, after reciting Articles 1 and 2 of the Treaty of 1884, expressly declared that the changes whereby the so-called bancos had been formed were „owing to the slow and gradual erosion coupled with avulsion." That the erosive action thus referred to was and is far more rapid and violent than that which occurred in the Chamizal tract is unquestionable, but the Presiding Commissioner and the Mexican Commissioner observe, with reference to the investigations undertaken by the International Boundary Commission upon which the banco treaty was based, that

The report rendered by the Commissioners to their respective governments in no way discloses any facts tending to show the nature and extent of the erosive changes, and properly so, because that was not material to the question to be decided. It is true that, by making a minute examination of the plans accompanying the report, the actual extent of the erosive changes might have been ascertained, but there certainly was nothing in the question submitted to the governments for solution to necessitate, or even to suggest, such an inquiry. (Opinion, p. 34 [*supra*, p. 87].)

With all respect, it would seem that the question as to whether or not the changes which resulted in the banco formation were „slow and gradual" within the meaning of the Treaty of 1884, was so „material to the question to be decided" that if those changes were not „slow and gradual" there would in most instances have been no bancos to eliminate. It is true that the commissioners did not think it necessary to state in

figures the rate of erosion on each banco, but the rate of erosion was obtainable by a casual examination of the maps and reports if the plenipotentiaries were interested in knowing the rate. Having the information before them they were free to use it or not in framing their language, but no rule either of logic or justice is perceived that would relieve them or the contracting parties from being held to the accountability which binds all other men when they use language in a legal document to express ideas.

And again the American Commissioner feels constrained to say that he can not understand the method of the interpretation which gives such emphasis to the words „slow and gradual" in article I of the Treaty of 1884 as to override not only the ordinary rules of international law and the uniform construction placed upon the treaty by the International Boundary Commission since its organization and by agents and counsel for both parties before this Commission, but also what appears to him to be the plain and unmistakable intent of Article II to confine all „other changes" to the cutting of a new bed or the deepening of an existing channel, while the same words in the Banco Treaty of 1905, although entirely consistent with the purpose and scope of that treaty, are apparently deemed negligible and unimportant.

The failure of the Presiding Commissioner to regard the Banco Treaty of 1905 as placing an authoritative interpretation upon the words „slow and gradual" in the Treaty of 1884, appears all the more strange to the American Commissioner in view of the fact that the Presiding Commissioner, earlier in his opinion, in his discussion of the retroactivity of the Treaty of 1884, attaches great weight to this same Treaty of 1905 because it provides for the elimination from the Treaty of 1884 of bancos formed prior to 1884. The Presiding Commissioner has no difficulty in holding the governing minds of the two countries responsible for the language which they used in the Treaty of 1905 so far as it construes the Treaty of 1884 retroactively. He says:

This recognition of the retrospective application of the Convention of 1884 is not that of subordinates, but of the governments themselves, which expressly adopted the views of the commissioners as to the application of the Treaty of 1884 and as to the desirability of taking such cases, both past and future, out of the convention and substituting new provisions. (Opinion, p. 24 [*Supra* p. 81].)

It is difficult to see why the plenipotentiaries should be charged with notice of the date at which these bancos were cut off and not of the rate at which they were formed.

It should furthermore be remembered that in his opinion in Chamizal case No. 4 in 1896 the American Commissioner called attention to the rapidity of the erosion which has been recognized as slow and gradual in the case of the bancos and gave the figures of erosion in the case of one banco, the Banco de Camargo, eighty-seven meters a year, figures which exceed any erosion which could have taken place in the Chamizal tract,

even on an assumption most favorable to the Mexican contention. In discussing the reports rendered by the Commissioners to their respective governments in 1896, in which the American Commissioner asserted that if the erosion in El Chamizal was not slow and gradual, then *a fortiori*, the erosion which had formed the bancos in the lower part of the river could not be slow and gradual,*) the Presiding Commissioner suggests that that report „was counteracted by the reply of the Mexican Commissioner, who argues that there was no similarity between the two cases," and deduces therefrom the conclusion that „under these circumstances it is reasonable to conclude that the Mexican Government adopted the view of their commissioner" (Opinion, pp. 34, 35 [*supra*, p. 87]). It is difficult to accept this conclusion in view of the fact that in drafting the Treaty of 1905 the Mexican Government brushed aside the distinction sought to be established by its Commissioner and applied the provisions of the banco treaty to the Rio Grande in the upper as well as in the lower division of the river „throughout that part of the Rio Grande — — — which serves as a boundary between the two nations." (U. S. Case, App., p. 87.)

The irresistible logic with which the Presiding Commissioner drives home the conclusion that the ambiguity, if any, in the Convention of 1884, in so far as the retroactivity of the convention is concerned, is removed by the practical construction placed upon that treaty by the contracting parties as well as by the language of the Treaties of 1889 and 1905, compels the admiration and approval of the American Commissioner, but he can not expel from his mind that the conclusion from the same course of practical construction and subsequent treaty inter-

*) The Presiding Commissioner has fallen into error (Opinion, p. 34 [*supra*, p. 87]) in suggesting that the American Commissioner in 1896 compared the erosion at Chamizal to that which formed the bancos only, whereas the American Commissioner in his opinion was referring to the erosion at every bend in the river throughout the 800 miles where it flowed through alluvial formation.

The following are the words used by him:

„In the opinion of the United States Commissioner, if the changes at El Chamizal have not been ‚slow and gradual' by erosion and deposit within the meaning of Article I of the Treaty of 1884, there will never be such a one found in all the 800 miles, where the Rio Grande with alluvial banks, constitutes the boundary, and the object of the Treaty will be lost to both governments, as it will be meaningless and useless, and the boundary will perforce be through all these 800 miles continuously that laid down in 1852, having literally no points in common, with the present river, save in its many hundred intersections with the river, and to restore and establish this boundary will be the incessant work of large parties for years, entailing hundreds of thousands of dollars in expense to each Government and uniformly dividing the lands between the nations and individual owners, that are now, under the supposition that for the past forty years, the changes have been gradual, and the river accepted generally as the boundary, under the same authority and ownership; for it must be remembered that the river in the alluvial lands, which constitute 800 miles, has nowhere today, the same location it had in 1852." (Proceedings of International Boundary Commission, vol. I, p. 93.)

pretation applies with equal force to the ambiguity, if any, of the Convention of 1884 when dealing with erosion and avulsion.

The words „slow and gradual" are relative terms. The Treaty of 1884 was drafted specifically for the Rio Grande, and its changes at the point in question have been slow and gradual compared to other changes both in the upper and lower river or when compared with the progress of a snail.

Award void for uncertainty.

The award of the Presiding Commissioner and the Mexican Commissioner, constituting a majority of the Commission, is to the effect that the

international title to the portion of the Chamizal tract lying between the middle of the bed of the Rio Grande, as surveyed by Emory and Salazar in 1852, and the middle of the bed of the said river as it existed before the flood of 1864, is in the United States of America, and the international title to the balance of the said Chamizal tract is in the United States of Mexico. Opinion, p. 36 [*supra*, p. 88].)

The American Commissioner is of opinion that this award is void for the further reason that it is equivocal and uncertain in its terms and impossible of accomplishment. The Presiding Commissioner and the Mexican Commissioner „conceive that it is not within their province to relocate that line [the line of 1864], inasmuch as the parties have offered no evidence to enable the Commissioners to do so." (Opinion, p. 36 [*supra*, p. 88].) It is submitted, with all respect, that the fact that the parties have offered no evidence of the location of the line of 1864 is suggestive of the fact that it was not within the contemplation of the parties that the tract should be divided. Perhaps the reason that agent and counsel on either side, even after the suggestion of the court as to the possibility of dividing the tract along the channel of 1864, did not ask leave to offer evidence for the purpose of relocating this channel was because they were and are well aware that it would be as impossible to locate the channel of the Rio Grande in the Chamizal tract in 1864 as to relocate the Garden of Eden or the lost Continent of Atlantis.

In concluding this dissenting opinion, it is impossible to refrain from pointing out the unfortunate results which this decision would have in the contingency that the two countries should attempt to follow it in interpreting the Treaty of 1884 in other cases.

The American Commissioner does not believe that it is given to human understanding to measure for any practical use when erosion ceases to be slow and gradual and becomes sudden and violent, but even if this difficulty could be surmounted, the practical application of the interpretation could not be viewed in any other light than as calamitous to both nations. Because, as is manifest from the record in this case, all the land on both sides of the river from the Bosque de Cordoba, which adjoins the Chamizal tract, to the Gulf of Mexico (excepting the canyon

region) has been traversed by the river since 1852 in its unending lateral movement, and the mass, if not all, of that land is the product of similar erosion to that which occurred at El Chamizal, and by the new interpretation which is now placed upon the Convention of 1884 by the majority of this Commission, not only is the entire boundary thrown into well nigh inextricable confusion, but the very treaty itself is subjected to an interpretation that makes its application impossible in practice in all cases where an erosive movement is in question.

The Convention of 1910 sets forth that the United States and Mexico „desiring to terminate — — — the differences which have arisen between the two countries,“ have „determined to refer these differences“ to this Commission enlarged for this purpose. The present decision terminates nothing; settles nothing. It is simply an invitation for international litigation. It breathes the spirit of unconscious but nevertheless unauthorized compromise rather than of judicial determination.

(Signed) *Anson Mills.*

Individual opinion of the Commissioner of Mexico.

(Translation.)

The Mexican Commissioner respectfully begs to differ from the opinion of his learned colleagues in definitely judging the subject of the Chamizal in the matter of the fixedness and invariability of the boundary line of 1852, and also in regard to the retrospective application of the Convention of 1884, as it does not appear to him that the findings of the majority on both points are supported by the record and the arguments that figure in the proceedings.

The agent of the Government of Mexico has left established a fundamental axiom in right—that the alluvium should be governed and qualified by the laws in force at the time in which it commenced to form. In the depth of this principle is enveloped the universal maxim of the irretroactivity of the laws, unless it is stipulated expressly in them, or that at the time the phonomena in question took place there should have been no provisions to cover it.

Neither of the two exceptions cited occur in the case of the Chamizal, as in 1852 there existed a perfectly defined law to apply—the Treaty of Guadalupe. The Convention of 1884 evidently does not contain any direct and precise stipulation as to its retrospective power.

My first proposition, according to this, is that the Treaty of 1848 stipulated in a clear and precise manner a fixed or „limited“ line.

The agent of Mexico expounds in methodical and sufficient form the classical division, universally adopted, of property in two large categories: „arcifinious“ property and „limited“ property. The characteristic of the former is to be determined in one of its boundaries by natural geographical „accidents“, such as mountain ranges, rivers, etc., which by their

manifest discernibility on the ground constitute within themselves limited lines, which in order to designate perfectly it is sufficient to mention. In order that the property may be in the second category, evidently, it is sufficient that it does not pertain to the first, although, further than that it is indicated characteristically as that whose boundaries in all senses are marked by means of definite and permanent lines or signs.

Now, it has remained undenied in this judgment that the Treaty of 1848 directed the general setting of landmarks on the dividing line between Mexico and the United States, and the marking of these landmarks on precise and authentic plans, as well as a religious conversation in the future of the line so fixed, and it is also shown in the record, without discussion on the part of America, that the commissioners charged with executing this convention, complying with the letter of their instructions, agreed, ordered, and carried to a conclusion the erection of permanent monuments, identical in character to those of the non-fluvial line, along the length of the fluvial, and that this operation was known to the two governments and was not disapproved by them, to which they gave account of all their acts.

In the matter of the Chamizal, there is data to prove that at least two of these monuments (of iron) were placed; one on the right bank of the river, in what is now Cuidad Juarez, and another on the left, in Magoffinsville, now part of El Paso. That these monuments were properly „mojoneras“ (land-marks) and not signs of topographical reference is undeniable, for the reason that they did not connect topographically with the lines of the survey. Their sole object was to „show the limits of both republics“, and their erection would have been absolutely unnecessary in case of an arcifinious boundary.

It is the opinion of the majority of the commissioners that the declaration in the Treaty of 1853 (Article I) that the limits between both countries should follow the middle of the Rio Bravo, *as stipulated in that of 1848*, is the best proof that the former treaty created an arcifinious and not a fixed line; because, it is said, if the line had been fixed before 1853, it would not have been affirmed then—both governments knowing, as they did know, that the river had changed its course between the former and the latter treaty—that *the center of the bed* would continue being the point of separation between the eminent domains of the two nations. The Commissioner for Mexico feels it necessary to state that he fails to see the force of the argument, because in his conception the Treaty of 1853 had three objects: first, to establish a boundary line in the territory between the Rivers Bravo and Colorado; second, to finish the establishment, where it had not already been concluded, of that portion of the line of 1848 not affected by the Gadsden Treaty; third, and very important, *to ratify the portions already established* of the line of 1848; and the new commissioners, to whom was entrusted the execution of Article I of the agreement, were given entire and final powers for each and every one of the three parts of their trust. Therefore, when in 1857 they

jointly delivered to their governments as result of their labors a collection of plans in which was clearly shown the position of the dividing line, according to the last treaty, that line (it might have been run in 1849, in 1852, or in any other year) remained adopted as the sole and invariable line of separation between the two republics.

In the particular matter referred to the judgment of this Arbitration Court, the river has varied after the survey of 1852 and before the signing of the Convention of La Mesilla, and the new commissioners knew it perfectly. What should they have done had they believed the Treaty of 1853 considered the river as arcifinious? Undoubtedly resurveyed map No. 29, in order to clearly mark out upon it the new and exact position of the dividing line; but as they did not so understand it, but knew that the line of 1852 ought to be fixed, and that the new line to be established after 1853 not having been already established before, would also have to be fixed, they comprehended that, assuming that in 1852 the position of said line in this valley had been finally decided and marked on official maps adopted by both commissions, the Treaty of 1853 imposed upon them the obligation of ratifying it, and thus they did, signing in 1855 the final sheet No. 29, notwithstanding the fact that the river marked on it did not then correspond with the true position which its course followed in the valley in 1855. This is the reason why the argument of his colleagues works in an opposite sense in the mind of the Mexican Commissioner than it does in theirs.

The opinion of the majority of the Honorable Commissioners is that the subsequent acts of the two governments show: on the part of the United States, an invariable judgment in favor of the interpretation of the Treaties of 1848 and 1853 as establishing an arcifinious limit in the fluvial portion of the boundary common to them; on the part of Mexico a lack of determination between the idea of the fixed line and a fluvial arcifinious limit.

Admitting, as the Mexican Commissioner clearly does, the doctrine of this Court that isolated expressions of officials of one or the other governments do not in any manner constitute an international obligation binding upon the nations whom they serve respectively, it is right to pass over the diverse opinions emitted by Messrs. Lerdo de Tejada, Frelinghuysen, etc., and look exclusively to the correspondence and negotiations sanctioned internationally and recognized by both governments, in order to ascertain their attitudes in the matters under discussion, and even then in only their vital points and not in their minor or incidental points.

It is not shown in the record, that there was correspondence or negotiations of that character touching the interpretations of the Treaties of 1848 and 1853, but on three occasions: in 1875 between Mr. Mariscal and Mr. Cadwalader; in 1884, between Mr. Romero and Mr. Frelinghuysen, in connection with the island of Morteritos and in the same year and between the same last named persons, concerning the preliminaries of the Convention of 1884.

In 1875 the allusion to the fixed line, in the past, appears evident by the terms of Article II, both of the draft for a convention presented by Mr. Mariscal to Mr. Cadwalader on March 25th and a second draft dated December 2nd of that year. In both reference is unmistakably made to the dividing line astronomically fixed by the boundary commission of both governments in 1852, which runs in the middle of the current of the rivers, according to their course at the time of their survey.

In regard to the case of Morteritos, the terms of the decision of the majority of this Tribunal relieve the Mexican Commissioner of the necessity of insisting here that the uniform attitude then shown by the Mexican Government was in the sense of the fixed line, inasmuch as it is thus recognized in such document.

Lastly, in the negotiations of the Convention of 1884, a reading of the instructions which guided Mr. Romero, and of his correspondence with the American Department of State, does not leave room for doubt as to the position adopted by Mexico in regard to the nature of the boundary line from its original demarkation until then,—that it was fixed and invariable and constituted to Mexico in her northern frontier an „ager limitatus", as these properties are understood by civil and international law.

It being established that until 1884 Mexico considered the line of 1852 as fixed, is it admissible that in that year she would negotiate a treaty converting it into an arcifinious boundary with retroactive effect? If the declarations of the Mexican negotiator, Don Matias Romero, are not sufficient to destroy all doubt in this respect, the following consideration would be more than sufficient: that Mexico could not in any manner have adopted a new boundary—supposing that the river had then ceased to be the boundary and was again taken as such—without protecting or ceding conveniently or by means of an express clause free from confusion, the rights of individuals and of the Mexican nation, to the lands embraced between the fixed line which was abandoned and the new fluvial line then adopted. As no such clause existed in the Convention of 1884, in view of the fact that all the language of it refers indisputably to the future; and considering the nature of the negotiations that preceded it, the Mexican Commissioner feels himself unable to accept the possible retroactivity of that convention.

Then, the opinion of the majority of the Honorable Commissioners is that the application which both governments made of the Convention of 1884 to the case of San Elizario and the fifty-eight original bancos of the lower Bravo is another proof, that the principle of the retroactivity had firm connection in the mind of the Mexican Government in respect to the application of that convention. From such an opinion also dissents, and, he believes with good reason, the Mexican Commissioner.

In the first place, there is no reason to infer from the fact that the Mexican Commissioner in 1894 presented the commission with the case of San Elizario, that the Government of Mexico, by this act, knowingly

put under the jurisdiction of the Treaty of 1884 the changes which occurred in the Bravo since 1857. The only thing that the cited procedure indicates is that Mexico submitted *that question* to the jurisdiction of the boundary commission established by the Treaty of 1889. Now, the powers of such commission were not limited in any manner to the application of the principles of 1884, but they covered and they were declared „exclusive,“ the resolution of *all the questions or difficulties that in the future* might arise between the two countries and *in which affected the position of the dividing line*, subject to the approval of both governments. In San Elizario, without doubt, it was endeavored to ascertain if that so-called „island“ pertained to Mexico or to the United States, and it certainly was the commission who had to decide it, whether the theory of a fixed or of an arcifinious line in regard to that ground was in force. The case was discussed, then, in quality of question solely, and not of erosive or avulsive change. It is certain that the commission decided it, taking into consideration certain very slight alluvial changes, occurring between 1852 and 1857; but taking the terms of their judgment, and considering that the essential of it was the definition of the nationality of the ground, *that was that* which was asked of the commissioners, it is not to be believed that the Governments paid any attention to the insignificant divergences, shown by the consulting engineers between the courses of the river, as given by Salazar, Emory, and the survey of 1890, because such divergences might very well appear to be due to the imperfection of the methods employed by one or the other of the engineers, notwithstanding what the later commission said to the contrary.

Now, in regard to the resolutions adopted by the two Governments, in the matter of the bancos in the lower River Bravo, it is sufficient to destroy the inference that is alleged to be deduced as to the retroactivity of the Convention of 1884, to say that the treaty in virtue of which it has been possible to approve said resolutions, *expressly adopted as retroactive* certain principles which called for „elimination“ of those bancos *in all those parts of the international dividing line* which are constituted by the centers of the beds of the Bravo and Colorado rivers. This condition of the internationality of the river remained plainly decided by that treaty in regard to the stretch of the Bravo embraced between its mouth and the confluence of the San Juan, due to the explicit adoption of the central line of its course of 1897 as boundary between the two countries and to the declaration that in future that boundary would follow *the deepest channel*, which was equivalent to converting into arcifinious this stretch of the Bravo. In regard to the rest of this river and to the Colorado, the principle of elimination will also be applicable with retroactive force in all those parts in which their course may be international, and in no other, unless in the future some arrangement may be made in virtue of which in the whole course of the Bravo and Colorado the fixed boundary of 1852 may be abandoned, and, as was done in the lower river, the real watercourse adopted as the new international boundary. In any

event, the retroactivity that has resulted or might result from this should be attributed solely and directly to the express and clear clauses of the Convention of 1905, that adopt it as a rule, but never to the power, direct or indirect, of that of 1884.

Such are the ideas of the Mexican Commissioner on the fixedness of the dividing line of 1852, and the irretroactivity of the Convention of 1884; but as he has been defeated in both points by the majority of the Court, and the latter has left established that as a result of the sequel of the case, the only principles which should govern are those contained in that Convention of 1884, this Commissioner believed it to be his duty to amply express his opinion from the new point of view and had the fortune to have the Presiding Commissioner agree with him in regard to the matter in which the convention referred to should be applied to the case, which has permitted the Court to dictate by majority a final sentence, that would otherwise have been impossible, since the attitude of the Commissioner of the United States in regard to such application diverges diametrically from that of the Presiding Commissioner.

This opinion and the context of the sentence in the points agreed to, leave sufficiently and totally explained the position of the Commissioner of Mexico in the present arbitral judgment.

(Signed) *F. B. Puga.*

Minutes of meeting of the Joint Commission, June 15, 1911.

El Paso, Texas June 15, 1911.

The Joint Commission met at the Sheldon Hotel, at 10 o'clock a. m. (meeting being held in Commissioner Mills' room owing to his illness). Present, the Commissioners, Secretaries, Agent of The United States and Assistant Agent of Mexico.

The Presiding Commissioner stated that the Chamizal case submitted to the Commission for decision having been discussed at length by the Commissioners an award had been made by a majority of their votes.

Then, the members of the Commission proceeded to sign the award, and the journal of the proceedings in the case, and the Mexican and American Commissioner submitted dissenting opinions, all of which are made a part of this journal.

A copy of the award was delivered to the Agent of the United States and the Assistant Agent of Mexico.

The Agent of the United States asked permission to make the following statement:

May it please the Commission: Although I have not had opportunity to consult with my government and must therefore act upon my own motion, subject to the consideration and action of my government, I deem it my duty, in order to safeguard the rights of the United States in the premises, with all deference, to make suggestion of protest against the

pecision and award which has just been rendered, upon the following grounds:

1. Because it departs from the terms of submission in the following particulars:

a. Because in dividing the Chamizal tract it assumes to decide a question not submitted to the Commission by the Convention of 1910 and a question the Commission was not asked to decide by either party at any stage of the proceedings;

b. Because it fails to apply the standard prescribed by the Treaty of 1884;

c. Because it applied to the determination of the issue of erosion or avulsion a ruling or principle not authorized by the terms of the submission or by the principles of international law or embraced in any of the treaties or conventions existing between the United States and Mexico;

d. Because it departs from the jurisdictional provision of the Treaty of 1889 creating the International Boundary Commission.

2. Because the award is uncertain and indefinite in its terms, incapable of being made certain, and impossible of application.

3. Because the award fails to „state the reasons upon which it is based“ in this that it fails to state specifically whether the alleged rapid and violent erosion by which it finds a portion of the Chamizal tract was formed comes within the terms of the Treaty of 1884 or is governed by the principles of international law, and fails to state reasons for the inferential finding that it comes within the provisions of the Treaty of 1884, in spite of the fact that these questions were repeatedly argued by agent and counsel for the United States.

4. Because of essential error of law and fact.

The Mexican Commissioner expressed the thanks of his government for the courtesy of the Government of the United States in permitting the use of the Federal court-room for the meeting of the Joint Commission.

The special duties of the Commission under the Treaty of June 24, 1910, having been completed, the Presiding Commissioner declared the Commission adjourned without day.

E. Lafleur.
Anson Mills.
F. B. Puga.

M. M. Velarde,
Secretario.

Wilbur Keblinger,
Secretary.

15.

ITALIE, ARGENTINE.

Protocole supplémentaire à la Convention d'extradition conclue le 16 juin 1886;*) signé à Rome, le 9 juin 1904.

Gazzetta ufficiale 1904. No. 242.

Protocolo.

Reunidos en el Ministerio de Negocios Extranjeros del Reino de Italia, SS. EE. Tommaso Tittoni, Ministro de Negocios Extranjeros, y Don Enrique B. Moreno, Enviado extraordinario y Ministro Plenipotenciario de la Republica Argentina, con el objeto de poner en armonia la Convención del 16 de junio de 1886 con las disposiciones del Código Penal Italiano puesto en vigor el 1⁰ de enero de 1890 con las cuales fué eliminada la distinción entre penas criminales y correccionales y abolida la pena de muerte; y deseando ademas remover las dudas á que pudiese dar lugar en los casos indicados la interpretación de dicha Convención, convinieron en lo siguiente:

1⁰ que la extradición será siempre concedida por los delitos de homicidio, lesiones corporales, estupro, rapto, atentado al pudor, poligamia, matrimonio simulado, incendio, falsificación y quiebra en los casos previstos para tales delitos en los n°s 1, 2, 3, 4, 7, 9 y 10 del art. 6 de dicha Convención; sea cual fuere la pena aplicable ó aplicada a aquellos delitos;

2⁰ que la extradición será concedida por los otros delitos indicados en el citado art. 6 cuando sean pasibles de pena restrictiva de la libertad personal por un tiempo mayor de un año ó con multa que exceda la suma de mil pesos moneda nacional argentina ó su equivalente en liras italianas;

3⁰ que en el caso de extradición de un individuo acusado ó condenado por delito que las leyes del país requirente repriman con pena mayor que las del país requerido, podrá este último al conceder la extradición imponer la condición que se aplique la pena menor. Tratándose de la pena de muerte, se sostituirá ésta con la inmediatamente inferior de acuerdo con lo que prescriban las leyes de los respectivos países;

4⁰ que será concedida la extradición aunque el culpable alegue un motivo ó fin politico, si el hecho por el cual ha sido pedida constituye principalmente un delito común;

5⁰ que no se reputará delito politico, ni aun conexo con aquel el atentado contra la vida del Jefe ó Soberano de uno de los Estados contratantes ó contra los miembros de sus respectivas familias ó contra los

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*) V. N. R. G. 2. s. XXVIII, p. 3; XXXIII, p. 47.

Ministros de Estado cuando este atentado constituya homicidio ó envenenamiento pasible de pena en cualquier grado.

En fé de lo cual, los infrascriptos, a este efecto debidamente autorizados, han firmado y sellado el presente protocolo adicional á la Convención de extradición de 16 junio de 1886.

Hecho en doble ejemplar, en la ciudad de Rome, á los 9 de junio de 1904.

El Ministro de la Republica Argentina
cerca S. M. el Rey de Italia
Enrique Moreno.

Protocollo.

Riunitisi al Ministero degli affari esteri del Regno d'Italia le LL. EE. Tommaso Tittoni, Ministro degli affari esteri, e don Enrico B. Moreno, inviato straordinario e Ministro plenipotenziario della Repubblica Argentina, con lo scopo di mettere in armonia la Convenzione del 16 giugno 1886 con le disposizioni del codice penale italiano, entrato in vigore il 1^0 gennaio 1890, con le quali fu tolta la distinzione fra pene criminali e correzionali e fu abolita la pena di morte; e desiderando inoltre di rimuovere i dubbi cui potesse nei casi appresso indicati dar luogo l'interpretazione della Convenzione medesima, hanno convenuto quanto segue:

1^0 che l'estradizione sarà sempre concessa pei reati di omicidio, lesioni personali, stupro, ratto, attentato al pudore, poligamia, matrimonio simulato, incendio, falsificazione e bancarotta nei casi previsti per tali reati nei numeri 1, 2, 3, 4, 7, 9 e 10 dell'art. 6 della detta Convenzione, qualunque sia la pena per quei reati minacciata o inflitta;

2^0 che l'estradizione sarà concessa per gli altri delitti indicati nel citato articolo 6 quando siana punibili con pena restrittiva della libertà personale per un tempo maggiore di un anno, o con multa eccedente la somma di 1000 pezzi moneta nazionale argentina o la somma equivalente in lire italiane;

3^0 che nel caso di estradizione di un accusato o condannato per un reato che le leggi del paese richiedente punisce con pena maggiore di quella stabilita dalle leggi del paese richiesto, potrà quest'ultimo, nel concedere la estradizione, imporre la condizione che si applichi la pena minore. Trattandosi della pena di morte, si sostituirà questa con quella immediatamente inferiore secondo le leggi dei rispettivi paesi;

4^0 che sarà concessa l'estradizione ancorchè il colpevole alleghi un motivo o fine politico, se il fatto pel quale è stata domandata costituisce principalmente un delitto comune;

5^0 che non si reputerà delitto politico, nè connesso con quello, l'attentato contro la vita del Capo o del Sovrano di uno degli Stati contraenti o contro i membri delle loro famiglie, o contro i ministri di Stato,

quando questo attentato costituisca omicidio od avvelenamento in qualsiasi grado punibile.

In fede di che, i sottoscritti, a ciò debitamente autorizzati, hanno firmato il presente protocollo addizionale alla Convenzione di estradizione del 16 giugno 1886, e vi hanno apposto i loro sigilli.

Fatto a Roma, in doppio esemplare, il 9 giugno 1904.

Il Ministro degli Affari Esteri
di S. M. il Re d'Italia:
Tittoni.

16.

JAPON, RUSSIE.

Traité d'extradition; signé à Tokio, le 1er juin / 19 mai 1911.*)

Publication officielle japonaise.

Traité d'extradition.

Sa Majesté l'Empereur du Japon et Sa Majesté l'Empereur de toutes les Russies, ayant résolu de conclure un Traité pour l'extradition des individus échappés à la justice, ont nommé à cet effet pour Leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur du Japon:

Son Ministre des Affaires Etrangères, le Marquis Jutaro Komura, Shosammi, Grand Cordon de l'Ordre Impérial du Soleil-Levant avec fleurs de Paulownia; et

Sa Majesté l'Empereur de toutes les Russies:

Son Ambassadeur Extraordinaire et Plénipotentiaire près Sa Majesté l'Empereur du Japon, le Maître de Sa Cour et Sénateur Nicolas Malewsky-Maléwitch,

Lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des stipulations suivantes.

Article I.

Les Hautes Parties Contractantes s'engagent à se livrer réciproquement, conformément aux stipulations, conditions et exceptions spécifiées dans le présent Traité, les individus échappés à la justice, qui, étant accusés de crimes ou délits définis à l'Article suivant et commis dans les limites de

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*) Les ratifications ont été échangées à St.-Pétersbourg, le 26 août 1911.

la juridiction de l'une des Parties Contractantes, ou bien étant condamnés pour tels crimes ou délits, auront été trouvés sur le territoire de l'autre Partie.

Article II.

L'extradition sera accordée: si l'acte criminel ou délictueux qui a motivé la demande d'extradition est, selon les lois des deux Hautes Parties Contractantes, punissable d'une peine d'emprisonnement, avec ou sans travaux forcés, dont le terme maximum (dans les deux cas) est supérieur à un an, ou bien d'une peine plus sévère; et — dans le cas d'un individu condamné pour un tel crime ou délit entraînant l'extradition — si la sentence prononcée dans l'Etat requérant l'extradition porte la peine d'emprisonnement avec ou sans travaux forcés pour au moins une année ou bien une peine plus sévère.

Article III.

Aucune des Hautes Parties Contractantes ne porte l'obligation d'extrader ses propres sujets ou les personnes assimilées aux sujets en tout ce qui concerne l'administration de la justice en matière criminelle.

Article IV.

Un fugitif ne sera pas extradé, si l'acte ayant motivé la demande d'extradition est un crime ou délit de caractère politique; toutefois ne seront pas considérés comme ayant un caractère politique les attentats contre la personne ou contre l'honneur d'un Souverain ou de l'un des membres de Sa Famille.

Si quelque question surgit à propos de l'application à tel ou autre cas des clauses ci-dessus énoncées dans le présent Article, la décision des autorités de l'Etat auquel la demande d'extradition est adressée sera définitive.

Article V.

L'extradition n'aura pas lieu:

1) si la personne réclamée a déjà été, dans le pays auquel la demande d'extradition est adressée, jugée et condamnée ou acquittée pour le crime ou délit qui a motivé la demande d'extradition, ou qu'elle y attend sa mise en jugement pour ce même crime ou délit;

2) si avant la réception de la demande d'extradition l'exemption des poursuites ou de la peine est déjà acquise par la prescription, selon les lois de l'une des Parties Contractantes.

Article VI.

Si l'individu réclamé par l'une des Parties Contractantes se trouve, sur le territoire de l'autre Partie, mis sous jugement ou bien frappé d'une peine pour tout autre acte que celui qui a motivé la réquisition, l'extradition sera déférée jusqu'à ce qu'il soit mis définitivement en liberté en conformité des lois.

Article VII.

Si l'individu réclamé par une des Hautes Parties Contractantes est en même temps réclamé, en vertu de traités d'extradition, par d'autres Etats, il sera remis au pays, dont la demande d'extradition aura la priorité selon les lois de l'Etat requis.

Article VIII.

Les demandes d'extradition seront adressées par la voie diplomatique.

Elles seront accompagnées des documents suivants, munis d'une traduction en langue française ou anglaise:

1) Dans le cas d'un individu accusé:

a) du mandat d'arrêt émis par les autorités compétentes ou bien d'une copie de ce mandat dûment légalisée;

b) des pièces judiciaires constatant la présomption de l'accomplissement du crime ou délit ayant motivé la demande d'extradition, ou bien d'une copie dûment légalisée de ces constatations;

c) d'une copie des extraits de lois se rapportant au cas en question.

2) Dans le cas d'un individu condamné:

de la sentence de condamnation, ou d'une copie dûment légalisée de cette sentence.

Le Gouvernement de l'Etat auquel l'extradition est demandée pourra, avant de l'accorder, demander à l'Etat requérant des documents et informations complémentaires à ceux indiqués plus haut.

Article IX.

La procédure de l'extradition sera réglée d'après les lois en vigueur dans l'Etat requis.

Article X.

Dans les cas d'urgence, l'arrestation provisoire du fugitif sur demande présentée par voie diplomatique, pourra être obtenue, avant la réception d'une demande d'extradition conforme au présent Traité. Cette demande d'arrestation provisoire portera indication de la nature du crime ou délit commis par le fugitif, et contiendra une déclaration certifiant qu'un mandat d'arrêt a déjà été lancé contre cet individu, ainsi que l'assurance que la demande d'extradition sera dûment effectuée conformément aux stipulations du présent Traité.

Un fugitif arrêté provisoirement sera mis en liberté dans le cas où, dans un délai de 60 jours à partir de la date de son arrestation, il ne sera pas présenté de demande d'extradition conforme aux stipulations du présent Traité.

Article XI.

Un individu extradé en vertu du présent Traité ne pourra, dans l'Etat auquel il aura été livré, être ni poursuivi, ni puni, ni remis à une tierce Puissance pour aucun autre acte antérieur à l'extradition que celui pour lequel il a été extradé, à l'exception toutefois des cas suivants:

1) Si le crime ou délit est de ceux qui entraînent l'extradition en vertu du présent Traité et si l'Etat qui le livre consent à ces poursuites, à cette punition, ou à cette remise à un tiers Etat.

2) Si dans le délai d'un mois après avoir obtenu la faculté de le faire, l'individu livré n'a pas quitté le territoire de l'Etat auquel il a été extradé.

Article XII.

Les objets qui auront été saisis et que l'individu réclamé aura obtenus au moyen du crime ou du délit, ou bien qui pourront servir de pièces à conviction en ce qui concerne le crime ou le délit, pour lequel l'extradition est requise seront, si la demande en est faite par l'Etat requérant, livrés à ce dernier en même temps que l'individu réclamé si les autorités compétentes de l'Etat requis trouvent qu'il y a lieu de le faire. Toutefois les droits des tierces personnes vis-à-vis de ces objets seront dûment respectés.

La remise de ces objets à l'Etat requérant aura lieu même dans les cas où l'extradition déjà accordée ne pourra être effectuée pour cause de décès ou de fuite de l'individu accusé ou condamné.

Article XIII.

Chacune des Hautes Parties Contractantes accordera, sur la demande de l'autre Partie, le transit par son territoire de tout individu qui aura été livré à cette dernière par une tierce Puissance, pourvu que le crime ou délit dont cet individu est inculpé soient de ceux qui auraient entraîné son extradition conformément au présent Traité dans le cas où l'individu aurait été trouvé sur le territoire de l'Etat qu'il doit transiter.

La demande pour le transit sera faite par la voie diplomatique. Elle devra contenir l'assurance que les conditions mentionnées au premier alinéa de cet Article seront observées et devra être accompagnée d'une copie dûment authentiquée de l'ordre d'extradition émanant de la tierce Puissance ayant consenti à la remise.

Pendant le transit, le fugitif devra être confié aux soins des fonctionnaires de l'Etat accordant le transit.

Article XIV.

Toutes les dépenses relatives à l'extradition ou au transit seront à la charge de l'Etat requérant.

Article XV.

Le présent Traité entrera en vigueur deux mois après l'échange des ratifications. Chacune des Hautes Parties Contractantes pourra le dénoncer par une notification préalable faite au moins six mois d'avance.

Il sera ratifié et l'échange des ratifications aura lieu à Saint Pétersbourg aussitôt que possible.

En foi de quoi les Plénipotentiaires respectifs ont signé le présent Traité et y ont apposé le cachet de leurs armes.

Fait en double expédition à Tokio, le premier jour du sixième mois de la quarante-quatrième année de Meiji, correspondant au $\frac{19 \text{ mai}}{1 \text{ juin}}$ de l'an mil neuf cent onze.

(L. S.) *Jutaro Komura.*
(L. S.) *N. Malewsky-Maléwitch.*

Déclaration Additionnelle.

En procédant, aujourd'hui, à la signature du Traité d'Extradition entre le Japon et la Russie, les Plénipotentiaires soussignés se sont entendus au sujet de la déclaration suivante:

1. Dans le Traité d'Extradition susmentionné le mot „territoire" signifie les régions se trouvant sous la souveraineté ou sous le gouvernement exclusif de chacune des deux Hautes Parties Contractantes, et le mot „juridiction" comprend, en plus du territoire plus haut défini, le domaine de la juridiction de chacune des Parties dans toute son étendue.

2. Dans l'application du susdit Traité, un individu échappé à la justice sera considéré comme „individu accusé" tant que la sentence prononcée contre lui n'est pas devenue définitive et conclusive. A partir de ce moment, il sera considéré comme „individu condamné."

3. Cette déclaration aura les mêmes force, valeur et durée que le Traité d'Extradition auquel elle est annexée. Elle sera soumise à l'approbation des Hautes Parties Contractantes en même temps que le dit Traité, et, lorsque celui-ci aura été ratifié, la présente Déclaration sera considérée comme également approuvée sans qu'il y ait nécessité d'autre forme de ratification.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Déclaration et y ont apposé le cachet de leurs armes.

Fait en double à Tokio, le premier jour du sixième mois de la quarante-quatrième année de Meiji, correspondant au $\frac{19 \text{ mai}}{1 \text{ juin}}$ de l'an mil neuf cent onze.

(L. S.) *Jutaro Komura.*
(L. S.) *N. Malewsky-Maléwitch.*

17.

ARGENTINE, BOLIVIE, BRÉSIL, CHILI, COLOMBIE, COSTA-RICA, EQUATEUR, ETATS-UNIS D'AMÉRIQUE, GUATÉMALA, HAÏTI, HONDURAS, MEXIQUE, NICARAGUA, PARAGUAY, PÉROU, SALVADOR, URUGUAY, VÉNÉZUÉLA.

Résolutions et Recommandations de la Première Conférence Internationale Américaine, réunie à Washington, du 2 octobre 1889 au 19 avril 1890.

International American Conference. Reports and Recommendations. Washington 1890 (Government Printing Office.)

Extrait.

I.

Plan of Arbitration for the Settlement of Disputes between the American Republics.

International American Conference.

Reports of the Committee on General Welfare.

[As adopted by the Conference.]

I. Plan of Arbitration.

The Delegates from North, Central, and South America in Conference assembled:

Believing that war is the most cruel the most fruitless, and the most dangerous expedient for the settlement of international differences;

Recognizing that the growth of the moral principles which govern political societies has created an earnest desire in favor of the amicable adjustment of such differences;

Animated by the conviction of the great moral and material benefits that

Conferencia Internacional Americana.

Informes de la Comisión de Bienestar General.

[Como quedaron adoptados por la Conferencia.]

I. Plan de Arbitraje.

Las Delegaciones de Norte, Centro y Sud América, reunidas en Conferencia Internacional Americana,

Creyendo que la guerra es el medio más cruel, el más incierto, el más ineficaz y el más peligroso para decidir las diferencias internacionales;

Reconociendo que el desenvolvimiento de los principios morales que gobiornan las sociedades políticas, ha creado una verdadera aspiración en favor de la solución pacífica de aquellas disidencias;

Animadas por la idea de los grandes beneficios morales y materiales que

peace offers to mankind, and trusting that the existing conditions of the respective nations are especially propitious for the adoption of arbitration as a substitute for armed struggles;

Convinced by reason of their friendly and cordial meeting in the present Conference, that the American Republics, controlled alike by the principles, duties, and responsibilities of popular Government, and bound together by vast and increasing mutual interests, can, within the sphere of their own action, maintain the peace of the continent, and the good-will of all its inhabitants;

And considering it their duty to lend their assent to the lofty principles of peace which the most enlightened public sentiment of the world approves;

Do solemnly recommend all the Governments by which they are accredited to conclude a uniform treaty of arbitration in the articles following:

Article I.

The republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of the differences, disputes, or controversies that may arise between two or more of them.

Article II.

Arbitration shall be obligatory in all controversies concerning diplomatic and consular privileges, boundaries, territories, indemnities, the right of navigation, and the validity, construction, and enforcement of treaties.

Article III.

Arbitration shall be equally obligatory in all cases other than those

la paz ofrece á la humanidad, y confiando en que la condición actual de sus respectivos paises es especialmente propicia para la consagración del arbitraje en oposición á las luchas armadas;

Convencidas, por su amistosa y cordial reunión en la presente Conferencia, de que las naciones americanas, regidas por los principios, deberes y responsabilidades del Gobierno democrático, y ligadas por comunes, vastos y crecientes intereses, pueden, dentro de la esfera de su propia acción, afirmar la paz del Continente y la buena voluntad de todos sus habitantes;

Y reputando de su deber prestar asentimiento á los altos principios de paz que proclama el sentimiento ilustrado de la opinión universal;

Encarecen á los Gobiernos que representan la celebración de un tratado uniforme de arbitraje sobre las bases siguientes:

Artículo I.

Las Repúblicas del Norte, Centro y Sud América, adoptan el arbitraje como principio de Derecho Internacional Americano para la solución de las diferencias, disputas ó contiendas entre dos ó más de ellas.

Artículo II.

El arbitraje es obligatorio en todas las cuestiones sobre privilegios diplomáticos y consulares, límites, territorios, indemnizaciones, derechos de navegación, y validez, inteligencia y cumplimiento de tratados.

Artículo III.

El arbitraje es igualmente obligatorio, con la limitación del artículo

mentioned in the foregoing article, whatever may be their origin, nature, or object, with the single exception mentioned in the next following article.

Article IV.

The sole questions excepted from the provisions of the preceding articles are those which, in the judgment of any one of the nations involved in the controversy, may imperil its independence. In which case, for such nation, arbitration shall be optional; but it shall be obligatory upon the adversary power.

Article V.

All controversies or differences, whether pending or hereafter arising, shall be submitted to arbitration, even though they may have originated in occurrences antedating the present treaty.

Article VI.

No question shall be revived by virtue of this treaty concerning which a definite agreement shall already have been reached. In such cases arbitration shall be resorted to only for the settlement of questions concerning the validity, interpretation, or enforcement of such agreements.

Article VII.

The choice of arbitrators shall not be limited or confined to American States. Any government may serve in the capacity of arbitrator which maintains friendly relations with the nation opposed to the one selecting it. The office of arbitrator may also be intrusted to tribunals of justice, to scientific bodies, to public officials, or to private individuals, whether citizens or not of the States selecting them.

siguiente, en todas las demás cuestiones no enunciadas en el artículo anterior, cualesquiera que sean su causa, naturaleza ú objeto.

Artículo IV.

Se exceptúan únicamente de la disposición del artículo que precede, aquellas cuestiones que, á juicio exclusivo de alguna de las naciones interesadas en la contienda, comprometan su propia independencia. En este caso, el arbitraje será voluntario de parte de dicha nación, pero será obligatorio para la otra parte.

Artículo V.

Quedan comprendidas dentro del arbitraje las cuestiones pendientes en la actualidad, y todas las que se susciten en adelante, aún cuando provengan de hechos anteriores al presente Tratado.

Artículo VI.

No pueden renovarse, en virtud de este Tratado, las cuestiones sobre que las partes tengan celebrados ya arreglos definitivos. En tales casos, el arbitraje se limitará exclusivamente á las cuestiones que se susciten sobre validez, inteligencia y cumplimiento de dichos arreglos.

Artículo VII.

La elección de árbitros no reconoce límites ni preferencias. El cargo de árbitro no reconoce límites ni preferencias. El cargo de árbitro puede recaer, en consecuencia, sobre cualquiera Gobierno que mantenga buenas relaciones con la parte contraria de la nación que lo escoja. Las funciones arbitrales pueden también ser confiadas á los Tribunales de justicia, á las corporaciones científicas, á los funcionarios públicos, y á los simples

Article VIII.

The court of arbitration may consist of one or more persons. If of one person, he shall be selected jointly by the nations concerned. If of several persons, their selection may be jointly made by the nations concerned. Should no choice be agreed upon, each nation showing a distinct interest in the question at issue shall have the right to appoint one arbitrator on its own behalf.

Article IX.

Whenever the court shall consist of an even number of arbitrators, the nations concerned shall appoint an umpire, who shall decide all questions upon which the arbitrators may disagree. If the nations interested fail to agree in the selection of an umpire, such umpire shall be selected by the arbitrators already appointed.

Article X.

The appointment of an umpire, and his acceptance, shall take place before the arbitrators enter upon the hearing of the questions in dispute.

Article XI.

The umpire shall not act as a member of the court, but his duties and powers shall be limited to the decision of questions, whether principal or incidental, upon which the arbitrators shall be unable to agree.

Article XII.

Should an arbitrator or an umpire be prevented from serving by reason of death, resignation, or other cause, such arbitrator or umpire shall be replaced by a substitute to be selected in the same manner in which the

particulares, sean ó no ciudadanos del Estado que los nombre.

Artículo VIII.

El tribunal puede ser unipersonal ó colectivo. Para que sea unipersonal, es necesario que las partes elijan el árbitro de común acuerdo. Si fuere colectivo, las partes podrán convenir en unos mismos árbitros. A falta de acuerdo, cada nación que represente un interés distinto, tendrá derecho de nombrar un árbitro por su parte.

Artículo IX.

Siempre que el tribunal se componga de un número par de árbitros, las naciones interesadas designarán un árbitro tercero para decidir cualquiera discordia que ocurra entre ellos. Si las naciones interesadas no se pusieren de acuerdo en la elección del tercero, la harán los árbitros nombrados por ellas.

Artículo X.

La designación y aceptación del tercero se verificarán antes de que los árbitros principien á conocer del asunto sometido á su resolución.

Artículo XI.

El tercero no se reunirá con los árbitros para formar Tribunal, y su encargo se limitará á decidir las discordias de aquellos, en lo principal y en los incidentes.

Artículo XII.

En caso de muerte, renuncia ó impedimento sobreviniente, los árbitros y el tercero serán reemplazados por otros nombrados por las mismas partes y del mismo modo que lo fueron aquellos.

original arbitrator or umpire shall have been chosen.

Article XIII.

The court shall hold its sessions at such place as the parties in interest may agree upon, and in case of disagreement or failure to name a place the court itself may determine the location.

Article XIV.

When the court shall consist of several arbitrators, a majority of the whole number may act notwithstanding the absence or withdrawal of the minority. In such case the majority shall continue in the performance of their duties until they shall have reached a final determination of the questions submitted for their consideration.

Article XV.

The decision of a majority of the whole number of arbitrators shall be final both on the main and incidental issues, unless in the agreement to arbitrate it shall have been expressly provided that unanimity is essential.

Article XVI.

The general expenses of arbitration proceedings shall be paid in equal proportions by the governments that are parties thereto; but expenses incurred by either party in the preparation and prosecution of its case shall be defrayed by it individually.

Article XVII.

Whenever disputes arise the nations involved shall appoint courts of arbitration in accordance with the provisions of the preceding articles. Only by the mutual and free consent of

Artículo XIII.

El Tribunal ejercerá sus funciones en el lugar designado pos las partes; y si ellas no lo designaren, ó no estuvieren de acuerdo, en el que el mismo Tribunal escogiere al efecto.

Artículo XIV.

Cuando el Tribunal fuere colegiado, la acción de la mayoría absoluta no será paralizada ó restringida por la inasistencia ó retiro de la minoría. La mayoría deberá, por el contrario, llevar adelante sus procedimientos y resolver el asunto sometido á su consideración.

Artículo XV.

Las decisiones de la mayoría absoluta del Tribunal colectivo constituirán sentencia, así sobre los incidentes como sobre lo principal de la causa, salvo que el compromiso arbitral exigiere expresamente que el laudo sea pronunciado por unanimidad.

Artículo XVI.

Los gastos generales del arbitramento serán pagados á prorata entre las naciones que sean parte en el asunto. Los que cada parte haga para su representación y defensa en el juicio, serán de su cuenta.

Artículo XVII.

Las naciones interesadas en la contienda formarán, en cada caso, el Tribunal arbitral, de acuerdo con las reglas establecidas en los artículos precedentes. Solo por mútuo y libre

all of such nations may those provisions be disregarded, and courts of arbitration appointed under different arrangements.

consentimiento de todas ellas, podrán separarse de dichas disposiciones para constituir el Tribunal en condiciones diferentes.

Article XVIII.

This treaty shall remain in force for twenty years from the date of the exchange of ratifications. After the expiration of that period, it shall continue in operation until one of the contracting parties shall have notified all the others of its desire to determine it. In the event of such notice the treaty shall continue obligatory upon the party giving it for one year thereafter, but the withdrawal of one or more nations shall not invalidate the treaty with respect to the other nations concerned.

Artículo XVIII.

Este Tratado subsistirá durante veinte años contados desde la fecha del canje de las ratificaciones. Concluido este término, seguirá en vigor hasta que alguna de las partes contratantes notifique á las otras su deseo de que caduque. En este caso, continuará subsistente hasta que transcurra un año desde la fecha de dicha notificacion.

Es entendido, sin embargo, que la separación de alguna de las partes contratantes no invalidará el Tratado respecto de las otras partes.

Article XIX.

This treaty shall be ratified by all the nations approving it, according to their respective constitutional methods; and the ratifications shall be exchanged in the city of Washington on or before the first day of May, A. D. 1891.

Any other nation may accept this treaty and become a party thereto, by signing a copy thereof and depositing the same with the Government of the United States; whereupon the said Government shall communicate this fact to the other contracting parties.

In testimony whereof the undersigned plenipotentiaries have hereunto affixed their signatures and seals.

Done in the city of Washington, in copies in English, Spanish, and Portuguese, on this day of the month of , one thousand eight hundred and ninety.

Artículo XIX.

Este Tratado se ratificará por todas las naciones que lo aprueben, conforme á sus respectivos procedimientos constitucionales; y las ratificaciones se canjearán en la ciudad de Washington, el dia 1º de Mayo de 1891, ó antes, si fuere posible.

Cualquiera otra nación puede adherir á este Tratado y ser tenida como parte en él, firmando un ejemplar del mismo, y depositándolo ante el Gobierno de los Estados Unidos, el cual hará saber este hecho á las otras partes contratantes.

En fé de lo cual, los infrascritos Plenipotenciarios han puesto sus firmas y sellos.

Hecho en la ciudad de Washington, en ejemplares en inglés, español y portugués á los dias del mes de de mil ochocientos noventa.

II. Recommendation to European powers.

The International American Conference resolves: That this Conference, having recommended arbitration for the settlement of disputes among the Republics of America, begs leave to express the wish that controversies between them and the nations of Europe may be settled in the same friendly manner.

It is further recommended that the government of each nation herein represented communicate this wish to all friendly powers.

III. The Right of Conquest.

Whereas the International American Conference feels that it would fall short of the most exalted conception of its mission were it to abstain from embodying its pacific and fraternal sentiments in declarations tending to promote national stability and guaranty just international relations among the nations of the continent: Be it therefore

Resolved, That it earnestly recommends to the Governments therein represented the adoption of the following declarations:

First. That the principle of conquest shall not, during the continuance of the Treaty of Arbitration, be recognized as admissible under American public law.

Second. That all cessions of territory made during the continuance of the Treaty of Arbitration shall be void, if made under threats of war or the presence of an armed force.

Third. Any nation from which such cessions shall be exacted may

II. Recomendación sobre Arbitraje con Potencias Europeas.

La Conferencia International Americana resuelve: Que habiendo recomendado esta Conferencia el arbitraje para la decisión de las disputas entre las Repúblicas de América, se permite expresar el deseo de que las controversias entre ellas y las naciones de Europa sean decididas por el mismo amistoso medio.

La Conferencia recomienda ademas que los respectivos gobiernos de las naciones en ella representadas comuniquen este voto á todas las potencias amigas.

III. Derecho de Conquista.

Considerando: Que la Conferencia Internacional Americana no llenaria la parte mas elevada de su misión si se abstuviera de consagrar sus aspiraciones pacíficas y fraternales por medio de declaraciones que consoliden los vínculos nacionales y afianzen las relaciones internacionales de todos los Estados del Continente.

Resuelve: Encarecer á los Gobiernos representados en ella, la adopción de las siguientes declaraciones:

Primera. El principio de conquista queda eliminado del Derecho público americano, durante el tiempo que esté en vigor el Tratado de arbitraje.

Segunda. Las cesiones de territorios que se hicieren durante el tiempo que subsista el tratado de arbitraje serán nulas, si se hubieren verificado bajo la amenaza de la guerra, ó la presión de la fuerza armada.

Tercera. La nación que hubiere hecho tales cesiones tendrá derecho

demand that the validity of the cessions so made shall be submitted to arbitration.

Fourth. Any renunciation of the right to arbitration made under the conditions named in the second section shall be null and void.

para exigir que se decida por arbitramento acerca de la validez de ellas.

Quarta. La renuncia del derecho de recurrir al arbitraje, hecha en las condiciones del artículo segundo, carecerá de valor y eficacia.

II.

Reciprocity treaties with Latin America.

Recommendation of the Conference.

Therefore the committee proposes:

To recommend to such of the Governments represented in the Conference as may be interested in the concluding of partial reciprocity, commercial treaties, to negociate such treaties with one or more of the American countries as it may be in their interest to make them, under such a basis as may be acceptable in each case, taking into consideration the special situation, conditions, and interests of each country, and with a view to promote their common welfare.

III.

Intercontinental Railway Line.

The International American Conference is of the opinion:

First. That a railroad connecting all or a majority of the nations represented in this Conference will contribute greatly to the development of cordial relations between said nations and the growth of their material interests.

Second. That the best method of facilitating its execution is the appointment of an international commission of engieenrs to ascertain the possible routes, to determine their true length, to estimate the cost of each, and to compare their respective advantages.

Third. That the said commission should consist of a body of engineers of whom each nation should appoint three, and which should have authority to divide into subcommissions and appoint as many other engineers and employés as may be considered necessary for the more rapid execution of the work.

Fourth. That each of the Governments accepting may appoint, at its own expense, commissioners or engineers to serve as auxiliaries to the subcommissions charged with the sectional surveys of the line.

Fifth. That the railroad, in so far as the common interests will permit, should connect the principal cities lying in the vicinity of its route.

Sixth. That if the general direction of the line can not be altered without great inconvenience, for the purpose mentioned in the preceding article, branch lines should be surveyed to connect those cities with the main line.

Seventh. That for the purpose of reducing the cost of the enterprise the existing railways should be utilized as far as is practicable and compatible with the route and conditions of the continental railroad.

Eighth. That in case the results of the survey demonstrate the practicability and advisability of the railroad, proposals for the construction either of the whole line or of sections thereof should be solicited.

Ninth. That the construction, management, and operation of the line should be at the expense of the concessionaires, or of the persons to whom they sublet the work or transfer their rights, with all due formalities, the consent of the respective Governments being first obtained.

Tenth. That all materials necessary for the construction and operation of the railroad should be exempt from import duties, subject to such regulations as may be necessary to prevent the abuse of this privilege.

Eleventh. That all personal and real property of the railroad employed in its construction and operation should be exempt from all taxation, either national, provinzial, (State), or municipal.

Twelfth. That the execution of a work of such magnitude deserves to be further encouraged by subsidies, grants of land, or guaranties of a minimum of interest.

Thirteenth. That the salaries of the commission, as well as the expense incident to the preliminary and final surveys, should be assumed by all the nations accepting, in proportion to population according to the latest official census, or, in the absence of a census, by agreement between their several Governments.

Fourteenth. That the railroad should be declared forever neutral for the purpose of securing freedom of traffic.

Fifteenth. That the approval of the surveys, the terms of the proposals, the protection of the concessionaires, the inspection of the work, the legislation affecting it, the neutrality of the road, and the free passage of merchandise in transit, should be (in the event contemplated by article eighth) the subject of special agreement between all the nations interested.

Sixteenth. That as soon as the Government of the United States shall receive notice of the acceptance of these recommendations by the other Governments, it shall invite them to appoint the commission of engineers referred to in the second article, in order that it may meet in the city of Washington, at the earliest possible date.

Juan Francisco Velarde.	*José Andrade.*
H. G. Davis.	*J. M. P. Caamaño.*
E. A. Mexia.	*F. C. C. Zegarra.*
Fernando Cruz.	*E. C. Varas.*
Jerónimo Zelaya.	*Manuel Quintana.*
Jacinto Castellanos.	*J. G. do Amaral Valente.*
Andrew Carnegie.	*José S. Decoud.*
Carlos Martinez Silva.	*H. Guzman.*

IV.

Postal and Cable Communication with Central and South America.

a)

Recommendations of the International American Conference as to Communication on the Atlantic Ocean.

First. The Committee on Communication on the Atlantic resolves to recommend to the respective Governments the aiding of one or more lines of steam navigation between ports of the United States and those of Brazil and Rio de la Plata.

Second. The companies receiving Government aid shall establish a fast bimonthly service of steam navigation between the ports of the United States, Rio Janeiro, Montevideo, and Buenos Ayres, and the vessels shall have the accommodations and capacity necessary for the transportation of freight and passengers, and shall carry the mails.

Third. These steam-ships shall only touch at one port of the intermediary countries on the trips to and from Buenos Ayres; but during the quarantine season they shall only discharge mails and passengers and shall not embark anything subject to infection. In the countries of clearance and ultimate destination, they may touch at two ports.

Fourth. The speed of the fast steam-ships shall be at least 16 knots per hour, and they shall be of not less than 5,000 tons, and a time schedule of arrivals at and departures from the ports shall be established in conformity with the speed required.

Fifth. Your committee recommends also an auxiliary line of freight steam-ships, which shall sail twice a month, making not less than 12 knots an hour, and touching at ports of the United States and Brazil. The United States of America and the Republic of Brazil shall pay one-half each of the amounts paid to these vessels, taking into due consideration the contract of the existing line with the latter Government.

Sixth. The awarding of the contract with the steam-ship companies shall take place in the city of New York, bids being solicited of the companies by advertisement in at least five daily newspapers having the largest circulation in each contracting country. The advertisement shall designate a time within which proposals may be presented, which time shall not be less than ninety days. The bids are to be opened in the presence of the representatives appointed for this purpose by the Governments interested.

Seventh. Bidders must state the tonnage of the vessels, in accordance with article four, and the amount of Government aid required, calculating the latter at the rate per ton for every 1,000 miles, and also the amount of payment for the round trip.

Eighth. The Governments reserve the right to reject all bids if, in their judgment, they should be excessive.

Ninth. The states shall have the right to impose their flag and register upon the vessels to a number proportionate to the percentage of the

aid they pay. In that case it is understood that the quota of each nation shall be paid directly to the vessel or vessels carrying its flag. In case of war each state may use as transports and arm as cruisers, upon payment therefor, the vessels carrying its flag.

Tenth. The vessels receiving Government aid, whatever flag they may carry, shall enjoy in the ports of the contracting Governments all the rights and privileges accorded to national vessels for the sole purpose of international commerce, but not including rights to coastwise trade.

Eleventh. The contracting Governments shall contribute aid to the fast line in the following proportion:

	Per cent.
The United States	60
The Argentine Republic	$17^1/_2$
Brazil	$17^1/_2$
Republic of Uruguay	5

Twelfth. The contracting states shall accept only vessels constructed in the United States, in consideration of the higher aid paid by that Government.

Thirteenth. The term of the contract shall be ten years.

Fourteenth. The Committee recommends to the Governments interested the encouragement of direct cable lines to connect the countries represented in said Committee with regular service and equitable rates.

Fifteenth. The Republics of Bolivia and of Paraguay hereby agree to the plan of the Committee, and will contribute to the payment on condition that the companies agree to establish subsidiary lines of river navigation that shall reach their ports.

b)

Report of the committee on communication on the Pacific Ocean as submitted to the International American Conference.

Recommendations as adopted.

„The International American Conference resolves: To recommend to the Governments of the countries bordering on the Pacific Ocean to promote among themselves maritime, telegraphic, and postal communications, taking into consideration, as far as compatible with their own interests, the propositions formulated in the report of the committee on communication on the Pacific.“

c)

Report on communication on the Gulf of Mexico and the Caribbean Sea.

The President of the International American Conference:

The committee appointed to consider and report upon the best means of extending and improving the facilities for commercial, postal, and telegraph communication between the several countries represented in this Conference that border upon the Gulf of Mexico and the Caribbean Sea has the honor to submit to the Conference the following report:

— — — — — — — — — — — — — — —

Recommendations as adopted.

In view of the proximity of all the ports of the Gulf of Mexico and the Caribbean Sea, the advantages that would accrue from increased social, commercial, and international intercourse, their dependence upon proper communication, the improbability that this will be established by unaided private enterprise, the duty of Governments to promote public welfare, the small public expenditures required to secure adequate mail, passenger, and freight facilities, and the necessity for their control by the countries whose interests they should subserve, the International American Conference recommends to all the nations bordering upon these waters the granting of Government aid in the establishment of first-class steam-ship service between their several ports upon such terms as they may mutually agree upon with reference (*a*) to the service required, (*b*) the aid it is necessary to extend, (*c*) the facilities it will severally afford them, (*d*) the basis upon which they are to contribute, (*e*) the amount that each is to pay, (*f*) the forms of agreement between the several Governments and the nature of contracts with steam-ship companies necessary to the successful execution of a general plan for such service.

V.

Sanitary and quarantine regulations.

The recommendations of the Conference as adopted.

The International American Conference, considering:

That under the existing state of the relations between the nations of America, it is practicable and advisable, for the promotion of these relations, to establish perfect accord with respect to sanitary regulations;

That the greater part of the ports of South America on the Atlantic are guided and governed by the decisions of the International Sanitary Convention of Rio de Janeiro, of 1887;

That although it does not appear that the plans of the Sanitary Congress of Lima, of 1888, have passed into the category of international compacts, it is to be hoped that they will be accepted by the Governments that participated in the said congress, because those plans were discussed and approved by medical men of acknowledged ability;

That the Sanitary Convention of Rio de Janeiro, of 1877, and the draught of the Congress of Lima, of 1888, agree in their essential provisions to such an extent that it may be said they constitute one set of rules and regulations;

That if these were duly obversed in all America they would prevent under any circumstances the conflict which usually arises between the obligation to care for the public health and the principle of freedom of communication between countries;

That the nations of Central and North America were not represented either in the Sanitary Convention of Rio de Janeiro or the Congress of

Lima; but that they might easily accept and apply to their respective ports on both oceans the sanitary regulations before cited:

Recommends to the nations represented in this Conference the adoption of the provisions of the International Sanitary Convention of Rio de Janeiro, 1887, or the draught of the Sanitary Convention of the Congress of Lima, of 1888.

Appendix.

*Convention of Rio de Janeiro.**)

*Convention of Lima.***)

VI.

Customs Regulations.

Reports of the Committee on Customs Regulations.

(As adopted by the Conference.)

a) Classification and Valuation of Merchandise.

Measures recommended.

In accordance with the conclusions thus carefully set forth, your committee asks the Conference to recommend to all the countries here represented the adoption of the following measures:

(1) That forms be adopted for outward manifests of vessels, which shall be lodged at the custom-house by masters of vessels at the time of clearance, and for supplementary manifests of steamers belonging to established lines to be made by the resident agents thereof and lodged by them in the custom-house within twenty-four hours after the sailing of the vessels, which manifests shall be used only for the determination of the cargo, etc., and shall not require consular certification.

That every such manifest shall show the name of the vessel and of her master, the ports of departure and destination, a description of her cargo by marks, numbers, and supposed contents of packages, with names of consignees and consignors, but no statement of values.

On the exportation of merchandise each individual shipper shall make and lodge at the custom-house for statistical purposes a special manifest, stating quantities, character, and values of the goods exported by him; and for a failure so to do he shall be subjected to a penalty.

The master of any vessel may, within forty-eight hours after the entrance at the custom-house and before any of the cargo shall have been landed, change her destination and proceed on his voyage. On entering a foreign port the master of every vessel belonging to one of the represented countries shall lodge with the custom authorities an inward manifest, containing all the facts shown by the outward manifest, including a list

*) V. N. R. G. 2. s. XIV, p. 462. **) Non imprimée.

of the passengers and crew and an account of surplus ship stores remaining on board. This manifest must be verified by the master's personal declaration at the custom-house. It shall not be accepted in lieu of an invoice and no consular certification shall be required. Forms for outward, inward, and shipper's manifests are herewith submitted.

With a view that each government shall have official record of its export trade by rail with adjoining countries, any persons delivering to a railway or other transportation company commodities for export to an adjoining country, shall also deliver a manifest thereof, showing the kind, quantity, and value of such commodities; and this manifest shall be delivered to the customs officer of the exporting country nearest to the borders thereof.

2. For the entry of imported merchandise, invoices shall be made out in the language and currency of either the country of import or of export, or in any currency actually paid for the merchandise. They must declare the contents and value of each package, and state the quantities and the values of the goods in figures and not in words, and the amounts so expressed, with any additions which the importer may make in his entry, shall be accepted at the custom-house as the basis for preliminary estimates of duty.

Wherever consular certification of manifests has heretofore been required the certification of invoices shall be accepted in lieu of the same. The consul's fee for legalization and certification shall be fixed at the uniform rate of $2.50 for each invoice, but no fee shall be required for duplicates of an original invoice, nor for any invoice the value of which does not exceed $100; provided that such invoice shall not have been subdivided for the purpose of reducing its total value.

If, by the reason of delay in the mails or other satisfactory cause, a certified invoice can not be produced, entry shall be allowed on a statement in the form of an invoice, and when the amount exceeds $100 the execution of a bond shall be required for the subsequent production of an invoice duly certified.

In case any of the packages covered by an invoice shall, by reason of short shipment, fail to arrive, entry may subsequently be made of the missing packages by means of a properly verified extract or copy of the original invoice. (Par. 11.)

3. That all imported merchandise shall be entered at the port of arrival on a prescribed form, which shall be a declaration or petition signed by the importer and giving the ship's name, port of departure and date of arrival, the particulars of the packages, including the weight or quantity and the supposed dutiable or free class of contents; also their values expressed in the currency of the invoice and reduced to the currency of the country of importation. The entry must agree in all essentials with the invoice and the bill of lading. That in all proceedings relating to the importation and entry of merchandise the declaration of the importer over his signature shall be received in lieu of his oath, and

that any false declaration so signed shall subject him to such penalties as may be provided by the respective countries. (Par. 12.)

4. That every reasonable facility shall be afforded for the unobstructed transit of merchandise through one country to an adjacent country, especially where transportation can be directly affected by railway or water routes and where bonds can be furnished for the delivery of such merchandise, intact, within the jurisdiction of the adjoining country. That in no case shall the contents of such packages be made subject to duty or to examination by custom officers while in transit, or to any onerous requirements and exactions, but they shall be held amenable to such supervision only as shall be incidental to proper safeguards against their unlawful introduction into the markets of the country through which they may be transported. (Par. 13.)

5. That technical defects in the form of any document which has been duly authenticated before the consul of any one of the countries shall not, in that country, be deemed sufficient cause for the imposition of fines or penalties, and that all other manifest clerical errors may be corrected, after entry at the custom-house, without prejudice to the consignee or the owner. (Par. 9.)

6. That every facility shall be granted in the various ports of entry for the entrance and clearance of vessels and the discharge and lading of cargoes; and, on all days when other official business may be suspended, that the custom-house shall be open during some part of each day, for the prompt entrance and clearance of vessels. (Par. 14.)

7. That the scale of duties shall be so arranged as to avoid the necessity of additional fees and charges, and that every country in which they continue to be exacted shall establish and publish a list of all fees and charges which are statutory in its ports, and that such exactions shall be respectively adjusted, so far as it is practicable, to cover the actual cost of the service rendered therefor. (Par. 15.)

8. That in all cases of dispute as to the legal rate or amount of duty, the importer shall be allowed to deposit under protest the maximum duty demanded by the customs authorities and to take possession of his goods; the entry in such cases to be liquidated as promptly as practicable after the final decision is reached, and the excess of duty (if any) refunded to the importer. (Par. 16.)

9. That in the principal ports of the countries here represented, a system shall be adopted as soon as practicable, whereby an importer who desires to place his importation temporarily in the custody of the Government before payment of duty shall be enabled to store it at his own expense and risk, under the supervision of the customs authorities. For this purpose, warehouses shall be provided in which such goods may remain on storage under bond during one or more years, and from which they may be withdrawn at any time by the importer, in quantities of not less than one package, or if in bulk, not less than one ton in weight, upon payment of the duty and charges upon the portion withdrawn for

consumption, or, if withdrawn for export, upon payment of the expenses of storage and labor. (Par. 17.)

10. That customs examinations shall be made solely for the verification of the declarations of the invoice and entry, and be conducted with the least possible delay and expense to the importer. Where the duties are specific, the invoice valuation shall be accepted for statistical purposes without verification. (Par. 21.)

11. That actual samples of merchandise of no commercial value sent by foreign dealers, or brought by bona fide commercial travellers, solely for inspection, and personal effects and tools of trade or occupation, brought by passengers for their own use and not for sale, shall be admitted without payment of duty, under such restrictions as may be provided. (Par. 22.)

12. That the countries here represented shall agree to circulate prompt information of the existence, within their respective borders, of contagious disease among cattle and other live-stock, and to establish proper precautions where importations of this character are threatened. (Par. 20.)

13. Merchandise which has been recovered from a wrecked or stranded vessel may be entered without invoice at the custom-house by either the salvors or the importers for appraisement by the proper authorities, and duties shall be paid in accordance with such appraisement. Importers shall also be accorded the privilege of abandoning to the Government, without liability for duty, any damaged merchandise included in any invoice, provided that the portion so abandoned shall amount in value or quantity to ten per centum of the entire invoice, and whenever recovered goods have been surrendered to an insurance company, the latter shall be recognized as the rightful owner of the same for all customs purposes. (Par. 26.)

14. That when importers have paid at the frontier the full amount of import duties assessed, they shall be exempted from all further liability for duties within the limits of the country of importation. (Par. 18, 19.)

15. That where the rate or amount of duties is dependent upon the weight, gross weight shall generally be used, and that in case net weight is required, allowances for tare shall be made according to schedules officially published. (Par. 25.)

16. Against the imposition of fines or excessive duties importers shall be granted the right of appeal to a tribunal by which their good or bad faith, as it may appear from the evidence, will be taken into account; and the decision of said tribunal upon the facts shall be final and shall be made as promptly as practicable, and whenever the good faith of the importer is satisfactorily shown no penalty shall be incurred. Customs officers shall have no participation in any of the customs receipts, but shall deposit them intact, including moneys derived from fines and forfeitures, into the treasuries of their respective governments. (Par. 27, 28.)

17. That the governments here represented shall unite for the establishment of an American international bureau for the collection, tabulation, and publication, in the English, Spanish, and Portuguese languages, of

information as to the productions and commerce, and as to the customs laws and regulations of their respective countries; such bureau to be maintained in one of the countries for the common benefit and at the common expense, and to furnish to all the other countries represented, such commercial statistics and other useful information as may be contributed to it by any of the American republics.

That the Committee on Customs be authorized and instructed to furnish to the Conference a plan of organization and a scheme for the practical work of the proposed bureau. (Par. 29, 30.)

18. The acceptance of the foregoing recommendations shall not require any change in the present legislation of the American republics, in case it should contain more liberal provisions than here proposed, as the purpose of the Conference is not only to adopt uniform rules, but to establish more liberal provisions than are now in force.

J. Alfonso.
M. Romero.
Clímaco Calderón.
Chas. R. Flint.
Salvador de Mendonça.
Manuel Aragón.
N. Bolet Peraza.
H. G. Davis.

b) Bureau of Information.

At the meeting of the Conference, held March 29, 1890, the following resolution was adopted:

That the governments here represented shall unite for the establishment of an American International Bureau for the collection, tabulation, and publication, in the English, Spanish, and Portuguese languages, of information as to the productions and commerce and as to the customs laws and regulations of their respective countries; such bureau to be maintained in one of the countries for the common benefit and at the common expense, and to furnish to all the other countries such commercial statistics and other useful information as may be contributed to it by any of the American republics. That the Committee on Customs Regulations be authorized and instructed to furnish to the Conference a plan of organization and a scheme for the practical work of the proposed bureau.

In accordance with said resolution the committee submits the following recommendations:

1. There shall be formed by the countries represented in this Conference an association under the title of „The International Union of American Republics for the prompt collection and distribution of commercial information."

2. The International Union shall be represented by a bureau to be established in the city of Washington, D. C., under the supervision of the Secretary of State of the United States and to be charged with the care of all transactions and publications and with all correspondence pertaining to the International Union.

3. This bureau shall be called „The Commercial Bureau of the American Republics," and its organ shall be a publication to be entitled „Bulletin of the Commercial Bureau of the American Republics."

4. The Bulletin shall be printed in the English, Spanish, and Portuguese languages.

5. The contents of the Bulletin shall consist of—

(*a*) The existing customs tariffs of the several countries belonging to the union and all changes of the same as they occur, with such explanations as may be deemed useful.

(*b*) All official regulations which affect the entrance and clearance of vessels and the importation and exportation of merchandise in the ports of the represented countries; also all circulars of instruction to customs officials which relate to customs procedure or to the classification of merchandise for duty.

(*c*) Ample quotations from commercial and parcel-post treaties between any of the American republics.

(*d*) Important statistics of external commerce and domestic products and other information of special interest to merchants and shippers of the represented countries.

6. In order to enable the commercial bureau to secure the utmost accuracy in the publication of the „bulletin," each country belonging to this union shall send directly to the bureau, without delay, two copies each of all official documents which may pertain to matters having relation to the objects of the union, including customs tariffs, official circulars, international treaties or agreements, local regulations, and, so far as practical, complete statistics regarding commerce and domestic products and resources.

7. This bureau shall at all times be available as a medium of communication and correspondence for persons applying for reasonable information in regard to matters pertaining to the customs tariffs and regulations and to the commerce and navigation of the American republics.

8. The form and style of the „bulletin" shall be determined by the commercial bureau and each edition shall consist of at least one thousand copies. In order that diplomatic representatives, consular agents, boards of trade, and other preferred persons shall be promptly supplied with the „bulletin," each member of the union may furnish the bureau with addresses to which copies shall be mailed at its expense.

9. Every country belonging to the International Union shall receive its quota of each issue of the „bulletin" and the quota of each country shall be in proportion to its population.

Copies of the „bulletin" may be sold (if there be a surplus) at a price to be fixed by the bureau.

10. While it shall be required that the utmost possible care be taken to insure absolute accuracy in the publications of the bureau, the International Union will assume no pecuniary responsibility on account of errors or inaccuraçies which may occur therein. A notice to this effect shall be conspicuously printed upon the first page of every successive issue of the bulletin.

11. The maximum expense to be incurred for establishing the bureau and for its annual maintenance shall be $36,000, and the following is a detailed estimate of its organization, subject to such changes as prove desirable:

One director in charge of bureau, compensation	$5,000
One secretary	3,000
One accountant	2,200
One clerk	1,800
One clerk and type-writer	1,600
One translator (Spanish and English)	2,500
One translator (Spanish and English)	2,000
One translator (Portuguese and English)	2,500
One messenger	800
One porter	600
	22,000

Office expenses.

Rent of apartments, to contain one room for director, one room for secretary, one room for translators, one room for clerks, etc., and one room for library and archives	$3,000
Lights, heat, cleaning, etc.	500
	3,500

Publication of bulletin.

Printing, paper, and other expenses	$10,000
Postage, express, and miscellaneous expenses	500
	10,500

12. The Government of the United States, through the Secretary of State, to advance to the International Union a fund of $36,000, or so much of that amount as may be required, for the expenses of the commercial bureau during its first year, and a like sum for each subsequent year of the existence of this union.

13. On the 1st day of July of the year 1891, and of each subsequent year during the continuance of this union, the director of the commercial bureau shall transmit to every government belonging to the union a statement in detail of the expenses incurred for the purposes of the union, not to exceed $36,000, and shall assess upon each of said governments the same proportion of the total outlay as the populations of the respective countries bear to the total populations of all the countries represented in the union, and all the governments so assessed shall promptly remit to the Secretary of State of the United States, in coin or its equivalent, the amounts respectively assessed upon them by the director of the bureau. In computing the population of any of the countries of this union, the

director of the bureau shall be authorized to use the latest official statistics in his possession. The first assessment to be made according to the following table:

Table of assessments for commercial bureau.

Countries.	Population.	Tax.	Countries.	Population.	Tax.
Hayti	500,000	$187.50	Honduras . . .	350,000	$131.25
Nicaragua . . .	200,000	75.00	Mexico	10,400,000	3,900.00
Peru	2,600,000	975.00	Bolivia	1,200,000	450.00
Guatemala . .	1,400,000	525.00	United States .	50,150,000	18,806.00
Uruguay . . .	600,000	225.00	Venezuela . . .	2,200,000	825.00
Colombia . . .	3,900,000	1,462.50	Chili	2,500,000	937.50
Argentine . . .	3,900,000	1,462.50	Salvador . . .	650,000	243.75
Costa Rica . .	200,000	75.00	Ecuador . . .	1,000,000	375.00
Paraguay . . .	250,000	93.75			
Brazil	14,000,000	5,250.00	Total . . .	96,000,000	36,000.00

14. In order to avoid delay in the establishment of the union herein described, the Delegates assembled in this Conference will promptly communicate to their respective governments the plan of organization and of practical work adopted by the Conference, and will ask the said governments to notify the Secretary of State of the United States, through their accredited representatives at this capital or otherwise, of their adhesion or non-adhesion, as the case may be, to the terms proposed.

15. The Secretary of State of the United States is requested to organize and establish the commercial bureau as soon as practicable after a majority of the countries here represented have officially signified their consent to join the International Union.

16. Amendments and modifications of the plans of this union may be made at any time during its continuance by the vote, officially communicated to the Secretary of State of the United States, of a majority of the members of the union.

17. This union shall continue in force during a term of ten years from the date of its organization, and no country becoming a member of the union shall cease to be a member until the end of said period of ten years. Unless twelve months before the expiration of said period a majority of the members of the union shall have given to the Secretary of State of the United States official notice of their wish to terminate the union at the end of its first period, the union shall continue to be maintained for another period of ten years and thereafter, under the same conditions, for successive periods of ten years each.

Josè Alfonso. *Salvador de Mendonça.*
M. Romero. *H. G. Davis.*
N. Bolet Peraza. *Chas. R. Flint.*

c) Nomenclature.

„*Rosolved,* That the International American Conference recommends to the Governments represented therein the adoption of a common nomenclature which shall designate in alphabetical order in equivalent terms, in English, Portuguese, and Spanish, the commodities on which import duties are levied, to be used respectively by all the American nations for the purpose of levying customs imposts which are or may hereafter be established, and also to be used in shipping manifests, consular invoices, entries, clearance petitions, and other customs documents; but not to affect in any manner the right of each nation to levy the import duties now in force, or which may hereafter be established.“

J. Alfonso.
Charles R. Flint.
M. Romero.
H. G. Davis.
Salvador de Mendonça.
Clímaco Calderón.

Annexe.

Résolution adoptée dans la session finale.

Resolved, That there be established at such location in the city of Washington as the Government of the United States may designate, to commemorate the meeting of the International American Conference, a Latin-American Memorial Library, to be formed by contributions from all the Governments represented in this Conference, wherein shall be collected all the historical, geographical, and literary works, maps, manuscripts, and official documents relating to the history and civilization of America, such library to be solemnly dedicated on the day on which the United States celebrates the Fourth Centennial of the discovery of Ameria.

VII.

International monetary Union.

The International American Conference is of opinion that great advantages would accrue to the commerce between the nations of this continent by the use of a coin or coins that would be current at the same value in all the countries represented in this Conference, and therefore recommends

(1) That an international American monetary union be established.

(2) That as a basis for this union an international coin or coins be issued which shall be uniform in weight and fineness, and which may be used in all the countries represented in this Conference.

(3) That to give full effect to this recommendation there shall meet in Washington a commission composed of one delegate or more from each

nation represented in this Conference, which shall consider the quantity, the kind of currency, the uses it shall have, and the value and proportion of the international silver coin or coins, and their relations to gold.

(4) That the Government of the United States shall invite the commission to meet in Washington within a year from the date of the adjournment of this Conference.

VIII.

Treaties for the Protection of Patents and Trade-Marks.

Whereas the International American Conference is of the opinion that the treaties on literary and artistic property, on patents, and on trade-marks, celebrated by the South American Congress of Montevideo,*) fully guaranty and protect the rights of property which are the subject of the provisions therein contained;

Resolved, That the Conference recommend, both to those Governments of America which accepted the proposition of holding the Congress, but could not participate in its deliberations, and to those not invited thereto, but who are represented in this Conference, that they adopt the said treaties.

IX.

Uniform System of Weights and Measures.

Recommendation as adopted by the Conference.

The advantages which the metrico-decimal system offers being so evident, and that system having been already adopted by so considerable a number of nations, your committee recommend the adoption of the following:

Resolved, That the International American Conference recommends the adoption of the metrical decimal system to the nations here represented which have not already adopted it.

X.

Uniform System of Port Dues.

a)

Reports on Port Dues.

Recommendations as adopted by the Conference.

The International American Conference hereby resolves to recommend to the Governments therein represented:

First. That all port dues be merged in a single one, to be known as tonnage dues.

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*) Traités du 11 et du 16 janvier 1889; v. **N. R. G.** 2. s. XVIII, p. 418, 421, 453.

Second. That this one charge shall be assessed upon the gross tonnage, or, in other words, upon the total carrying capacity of the vessel.

Third. That each Government fix for itself the amount to be charged as tonnage dues, but with due regard to the general policy of the Conference upon the subject, which is to facilitate and favor navigation.

Fourth. That there be excepted from the provisions of Article I the dues charged or to be charged under unexpired contracts with private companies.

Fifth. That the following shall be exempt from tonnage dues:

1. Transports and vessels of war.
2. Vessels of less than 25 tons.
3. Vessels which by any unforeseen and irresistible cause shall be compelled to put into port, deviating from their course.
4. Yachts and other pleasure boats.

b)

On Consular Fees.

Recommendation as adopted by the Conference.

Resolved, That the Governments represented in the Conference be recommended to prepare a uniform classification of the acts requiring the intervention of consular agents, fixing the maximum fees which should properly attach to each one of such acts, especially those relating to commerce and navigation.

XI.

Uniform Code of international law.

Reports on international law.

a)

On civil and commercial law.

The recommendations as adopted.

Resolved, That the Governments represented in this Conference, which as yet have not acceded to the treaties of private international law, civil law, commercial law, and law of proceedings adopted at the Congress which met at Montevideo on the 25th of August, 1888,*) be, and they are hereby, recommended to cause said treaties to be studied, so as to render themselves able, within the year, to be counted from the date of the termination of the labors of this Conference, to declare whether they do or do not accept the said treaties, and whether their acceptance of the same is absolute or qualified by some amendments or restrictions.

Resolved further, That the Governments represented in this Conference be, as they are, recommended to adopt in the matter of legalization of

*) Traités du 12 février, du 11 janvier et du 3 février 1889; v. N. R. G. 2. s. XVIII, p. 443, 424, 414, 456.

documents the principle that a document is to be considered duly legalized when legalized in accordance with the laws of the country wherein it was made or executed; and authenticated by the diplomatic or consular agent, accredited in the nation or locality where the document is executed, by the Government of the nation in which the document is to be used.

b)

Claims and Diplomatic Intervention.*)

Recommendations as adopted.**)

The International American Conference recommends to the Governments of the countries therein represented the adoption as principles of American international law, of the following:

(1) Foreigners are entitled to enjoy all the civil rights enjoyed by natives; and they shall be accorded all the benefits of said rights in all that is essential as well as in the form or procedure, and the legal remedies incident thereto, absolutely in like manner as said natives.

(2) A nation has not, nor recognizes in favor of foreigners, any other obligations or responsibilities than those which in favor of the natives are established, in like cases, by the constitution and the laws.

c)

On the Navigation of Rivers.

Recommendations as adopted.***)

Resolves to recommend to the several Governments of the nations represented in this Conference to adopt, declare, and recognize the following principles:

(1) That rivers which separate several States, or which bathe their territory, shall be open to the free navigation of the merchant marine or ships of war of the riparian nations.

(2) That this declaration shall not affect the jurisdiction nor the sovereignty of any of the riparian nations either in time of peace or war.

Minority report on claims and diplomatic intervention from the delegate from the United States.

I can not concur in the majority report for the following reasons:

I object to the term „American International Law". There can no more be an American international law than there can be an English, a German, or a Prussian international law. International law has an old and settled meaning. It is the common law of the civilized world, and was in active recognized and continuous force long before any of the now

*) Note.—Reports b and c were adopted by a majority of the Conference, the delegates from the United States voting in the negative.

**) See minority report of the delegates from the United States to follow.

***) See minority report of delegate from the United States, to follow.

established American nations had an independent existence. We accepted it as one of the conditions of our recognition, and we have no right to alter it without the consent of the nations who really founded it and who are and must be to-day, notwithstanding our increasing power and consequence, large and equal factors in its maintenance.

I of course recognize the right of any one nation or combination of nations to suggest such amendments and improvements as the progress of civilization renders advisable; but to make such changes a part of international law requires the consent of the civilized world.

Nor do I deny the right of any two or more nations to adjust their general political relations according to principles of which they approve, but this obligation is simply a treaty obligation, is confined in its action to the contracting parties, and can not exempt them or either of them from the larger and older obligations of international law, should they ever conflict.

Even the four points of the Congress of Paris, which were adopted by all the great powers of Europe, do not claim to be international law and are admitted to be binding only upon and between those nations who were signatories of the treaty.

In the contention over the Alabama claims England and the United States did agree that the decision should be governed by the application of certain principles which it was admitted were not principles of existing international law, but to be accepted *quoad hoc* as the rule of judgment in the special case.

And it is very noticeable that notwithstanding the declaration of such intent, no effort has been made in either case to widen these special transactions into alteration or amendment of international law. I assume, therefore, that the object of this reference is not to establish an American international law, in contrast or conflict with an European international law, but to suggest certain modifications as desirable, and to agree that, pending their incorporation into the international law of the world, we will, among ourselves, agree to be bound by the principles embodied in these resolutions.

Assuming this, the question is: Is it judicious for us to adopt these resolutions as the rule of action between ourselves and to make the necessary effort to have them incorporated into the international law of the world? For it is clear that they are either portions of existing international law, in which case we are already under their protection and bound by their obligations, or they are not existing international law, and then it is not in our power to make them so.

These recommendations cover two subjects:

(1) The subject of reclamation by foreigners against a Government in which they reside or with which they have had transactions.

(2) The subject of the navigation of rivers running as boundaries between or running in different portions of their course through different territories.

I shall first consider the subject of reclamation.

My objection to the very earnest and eloquent report of the majority is not to its details, but to the irresistible conclusion of its logic, which I can not interpret in any other sense than the entire and absolute denial of the right of diplomatic reclamation between independent governments in vindication or protection of the rights of its citizens residing in foreign countries. It is possible that cases of direct violence or tort by the government itself may be excepted, but not clearly.

„The foreigner with all the rights of the native [says the report], with no right less, yet with no right more, is the principle which, to the mind of the committee, is the base upon which every theory in the premises should rest. The starting point for practical conclusions in so interesting a matter. If the Government is responsible to its citizens for infraction of the Constitution or the laws, committed by agents of the public authority in the discharge of their duties, it will be equally responsible to foreigners, and *vice versa.* If the Government is not responsible to the citizen for damages caused by insurgents or rebels, neither will it be responsible to foreigners, and *vice versa.* If the natives have any protection against the decision and procedure of the courts, the same right shall be granted foreigners. In a word, in everything touching the exercises of civil rights natives and foreigners shall be on a perfect equal footing, equal rights, equal obligations, equal access to the authorities, equal procedure, equal appeals, but in no case shall the foreigner be superior, an exasperating position which may establish an indefensible duality of sovereignties and authorities. The foreigner should not appear like a spoiled child, always encircled by the arms of the Government of his nationality to prevent him from stumbling and injuring himself.“

Putting aside the supposed condition, existing in fact nowhere, in which „foreigners are entitled to enjoy all the civil rights enjoyed by natives,“ the above forcible and plausible statement can not be accepted without most important limitations. It may be admitted, but with serious reservations, that the resident foreigner in all contracts with private natives and in relation to violations of municipal law has no right to ask more protection than is given to the native citizen. But even here there is the underlying assumption that what is granted by native law and procedure, what is given to the native citizen is substantial justice. If under any peculiar law, under any absolutism of procedure, under any habit or usage of traditional authority to which natives are accustomed and willing to submit, the native process or judgment does not afford this substantial justice, the right of the foreigner to such substantial justice would be nevertheless complete, and how can it be assured to them? But if this be so even in cases of private contention, how is it with the cases where the reclamation of the foreigner is against the Government itself?

Into what court will the Government allow the sovereignty of the nation to be called to answer its responsibility to the claimant, and how

is its judgment to be enforced? What, under such a theory, becomes of a native merchant in a belligerent country? What guaranty has the foreigner against the forced loan to which a native citizen may be bound patriotically to submit? Take the case of the foreign bondholder furnishing to the Government invaluable assistance at critical times where the debt is neither denied nor repudiated, but simply and persistently left unpaid. Has any Government hesitated to protect by diplomatic reclamation the interests of its subjects, which no foreigner can enforce in the courts of his debtor? Take the case where the persons and property of foreigners have not received the protection to which their relation with the native Government entitles them. Is it conceivable that so great a departure from ancient usage and recognized international law would be accepted?

It will be recollected that very recently the experiment has been tried. In 1888, only two years ago, the Ecuadoran Congress passed a law decreeing as follows:

Article I.

The nation is not responsible for losses and damages caused by the enemy either in civil or international war or by mobs, riots, mutinies, or for those which may be caused by the Government in its military operations or in the measures it may adopt for the restoration of public order. Neither natives nor foreigners shall have any right of indemnity in such cases.

Article II.

Neither is the nation responsible for losses or damages consequent upon measures adopted by the Government towards natives or foreigners in involving their arrest, banishment, internation, or extradition whenever the exigencies of public order or a compliance with treaties with neighbouring nations require such action.

Article III.

The payment of indemnities not excluded by the foregoing articles can not be made except in conformity with the law of public credit and after a previous judgment by a competent judicial officer.

Article IV.

Neither foreigner nor native shall have the right of presenting claims to the legislature which were previously rejected by a former Congress.

Article V.

Foreigners who may have filled positions or commissions which subjected them to the laws and authorities of Ecuador can make no reclamation for payment or indemnity through a diplomatic channel.

The diplomatic corps at Quito protested against the act as contrary to the law of nations. On October 23, 1888, the State Department ad-

dressed the following instructions to the minister of the United States. After referring to the various articles of what it terms „the extraordinary law“ it proceeds:

„It is unnecessary to quote further provisions of the statute to show that it is subversive of all the principles of international law. This is so plain that it does not require or admit of argument. By such a declaration of rules for the guidance of her conduct in international relations, Ecuador places herself outside of the pale of international intercourse. It can not be supposed that she will persevere in such a course, which would be destructive of her commerce and render amicable relations with her impossible.

You are, therefore, instructed to say to the Ecuadorian Government that the provisions of the law in question have been read by this Department with regret, and that the United States could never acquiesce in any attempt on the part of that Government to use such a statute as an answer to a claim which this Government had presented.“

Now, while the conclusions and argument of the report do not make specific reference to this legislation, it does seem to me that its provisions would be generally supported both by the language and resolution. The second resolution reads thus:

„A nation has not, nor recognizes in favor of foreigners any other obligations or responsibilities than those which, in favor of the natives, are established by the constitution and the laws.“

I can put but one interpretation upon this language, and that is that whatever be the complaint of a resident foreigner against the Government under whose jurisdiction he is residing, he has no right in protection of his interests other than such as the Government may have provided in the way of judicial trial or executive appeal to its own citizens, and this principle once admitted, of course there follows the absolute exclusion of diplomatic reclamation; for the report says:

„None of the advancements of modern civilization is unknown to the Republics of America; granting the foreigner the same rights, neither less nor more, than the native enjoys, they do all they can and should do, and if their rights are not enough, and if they are not found to be sufficiently guarantied, and to be placed beyond the pale of abuse; if there is danger that abuse will sometimes be committed, as there is danger of earthquakes, of floods, of epidemics, of revolutions, and other misfortunes, the foreigner should have considered it all before deciding to live in a country where he runs such risks.“

I am willing to admit that there are cases in which this appeal of a foreigner to have the protection of his own country has been abused— that there may be cases in which the lapse of time, the loss of records, the insufficiency of evidence, the confused and revolutionary character of the circumstances under which the claims may be alleged to have arisen, all combine to diminish the equities of a diplomatic reclamation. But these are rare and are always subject to the scrutiny of the reclaiming

Government, and if there is a subject upon which nations are proverbially cautious it is the risk of involving national interests and incurring risks of provoking international difficulties in vindication of the violation of the rights of private individuals. And I can say confidently, with no inconsiderable knowledge of the diplomatic reclamations made by the Government of the United States, that the large majority of the claims which it has become the duty of the United States Government to press upon foreign nations has been in behalf of such claimants as the report describes, well founded in equity, reasonable in demand, and of singular temperance in tone.

Those claims have represented the courage and enterprise and capital of a shrewd, venturesome, but singularly intelligent and broad class of men. They have ventured much, not it is true without hope of reward, but very much that did substantial work in building up large industries, in sustaining struggling Governments, and in aiding other nations in their efforts at independence. And every day, as the world comes closer together, this community of enterprise, this transfer of labor and capital to do the work of other nations is spreading, and becoming not merely private and inconsiderable contracts, but large transactions, involving legislative action, Government intervention, and national responsibility.

The narrow technicality and the unavoidable prejudices of municipal law are growing too small for affairs of such magnitude.

And if there is a noticeable fact in the history of international claims, it is that the almost certain result of diplomatic reclamation is the arbitration of an impartial tribunal, in which all the equities are carefully scrutinized and by which almost every contention has been solved by a compromise which relieves national irritation and satisfies individual justice. I am satisfied that within the last fifty years surer foundations for the establishment of a real international law by diplomatic reclamation, thus terminating in arbitration, have been laid than by any influence at work in the history of the world.

This system has given us a series of special decisions covering a multiplicity of cases arising from the developing necessities of closer national relations, which will become, sooner or later, a code of decisions to which appeal may safely be made. The time has not yet come, but come it must, when all differences not between government and government—for that I deem impossible, but between the citizens of one country and the government of another—will find a common and legal tribunal to administer a recognized jurisdiction. But until that comes and as the surest and most efficient means to secure its coming is diplomatic reclamation seeking and finding arbitration.

I am unwilling to repeat the commonplace declaration, „*Romanus civus sum*“.

It has been distorted by the political declamation of that sort of passion which sometimes mistakes itself for patriotism; its truth has been abused by great and arrogant nations, and may be again. But human

nature must be changed, and changed for the worse, before you can separate loyalty to the Government and protection to the citizen. And that flag had better be furled under which a citizen does not feel that he is safe against injustice.

With these views I can not concur in any opinions which diminish the right or reduces the power of a nation by diplomatic reclamation, which is the manifestation of its moral strength and vitality, to protect the rights and interests of its citizens.

Minority report on the navigation of rivers by the delegate of the United States.

With regard to this subject I have little to say. The majority report states, I think, with sufficient accuracy the general doctrine, although how far these rights of navigation belong to the world as against the riparian sovereignty has not perhaps been absolutely settled. And I would have to make some reservation as to the first declaration, „that rivers which separate several States or which bathe their territories shall be open to the free navigation of the merchant marine or ships of war of the riparian nations".

The old contention as to the limitation of the naval power of Russia in the Black Sea might well be revived on the course of a great continental river where the riparian owners were of very different degrees of strength. And in case of war questions might arise not easily answered; for I confess, with all my study of international law, I have not learned what, if any, outside of questions of pure humanity, are the limitations on the right of war, and history seems to me only to teach that law, as the skeptical Frederick said of Providence, is always on the side of the stronger battalions.

I think that the appreciation of the principle, now so generally recognized as not to need confirmation, had better be left to the wisdom of the riparian owners, whose interests will more surely lead to sagacious and amicable settlement of questions which may arise than any appeal to general principles.

I do not object to the committee expressing its views upon the resolutions which have been referred to it, but I can not concur in any resolution declaring their principles to be principles of American international law.

William Henry Trescot,
Delegate from the United States.

XII.

Uniform Treaties for the Extradition of Criminals.

Report on Extradition.

[As adopted by the Conference April 15, 1890.]

The International American Conference resolves:

1st. To recommend to the Governments of the Latin American nations the study of the Treaty of Penal International Law made at Montevideo by the South American Congress of 1888,*) in order that within a year, to be counted from the date of the final adjournment of this Conference, they may express whether they adhere to the said treaty, and in case that their adhesion is not complete, which are the restrictions or modifications with which they accept it.

2d. To recommend at the same time that those Governments of Latin America which have not already made special treaties of extradition with the Government of the United States of North America, should make them.

XIII.

International American Bank.

Resolved, That the Conference recommends to the Governments here represented the granting of liberal concessions to facilitate inter-American banking, and especially such as may be necessary for the establishment of an International American Bank, with branches or agencies in the several countries represented in this Conference.

XIV.

Erection of Memorial Tablet.

Resolved, That all delegations here present, the United States delegation included, vote and provide the means to place, with the necessary permission, on the walls of the room in the Department of State, in which were inaugurated our sessions, a bronze tablet, which shall contain, above the roll of the delegations, the following inscription in the four languages of this Conference:

The nations of North, South, and Central America resolve that it be commemorated that in this room, on the 2d day of October, of the year 1889, James G. Blaine, Secretary of State of the United States, presiding, were opened the sessions of the International American Conference, which, besides other measures destined to promote the union and welfare of the peoples of this continent, recommended to them as a guaranty of peace, the principle of obligatory arbitration.

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*) Traité du 23 janvier 1889; v. N. R. G. 2. s. XVIII, p. 432.

XV.

Celebration of the Fourth Centennial of the Discovery of America.

Resolved, That in homage to the memory of the immortal discoverer of America, and in gratitude for the unparalleled service rendered by him to civilization and humanity, the International Conference hereby offers its hearty co-operation in the manifestations to be made in his honor on the occasion of the fourth centennial anniversary of the discovery of America.

18.

ARGENTINE, BOLIVIE, BRÉSIL, COLOMBIE, COSTA-RICA, CHILI, RÉPUBLIQUE DOMINICAINE, EQUATEUR, ETATS-UNIS D'AMÉRIQUE, GUATÉMALA, HAÏTI, HONDURAS, MEXIQUE, NICARAGUA, PARAGUAY, PÉROU, SALVADOR, URUGUAY, VÉNÉZUÉLA.*)

Protocole, Traités, Conventions, Résolutions et Recommendations de la Deuxième Conférence Internationale Américaine, réunie à Mexico du 22 octobre 1901 au 31 janvier 1902.**)***)

Second International Conference of American States. Washington 1902 (Government Printing Office).

I.

Translation of the Protocol of adherence to the Conventions of The Hague.

Whereas: The Delegates to the International Conference of the American States, believing that public sentiment in the Republics represented by them

Protocolo de adhesión á las Convenciones de la Haya.

Considerando: que los Delegados á la Conferencia Internacional de las Repúblicas Americanas creen que la opinión pública en las naciones que

*) Le Gouvernement de Vénézuéla a rappelé ses délégués le 14 janvier 1902.

**) A l'exception du Protocole concernant l'adhésion aux Conventions de la Haye (I) et du Traité d'arbitrage obligatoire (II) toutes les Conventions ont été dressées en langues espagnole, anglaise et française. Nous n'en reproduisons que les textes anglais.

***) Les dates de la ratification ajoutées aux Traités et Conventions reproduits sont fondées sur une communication bienveillante du Bureau des Républiques Américaines.

is constantly growing in the direction of heartily favoring the widest application of the principles of arbitration; that the American Republics controlled alike by the principles and responsibilities of popular government and bound together by increasing mutual interests, can, by their own actions, maintain peace in the Continent, and that permanent peace between them will be the forerunner and harbinger of their national development and of the happiness and commercial greatness of their peoples;

They have, therefore, agreed upon the following

Project.

Art. 1st. The American Republics, represented at the International Conference of American States in Mexico, which have not subscribed to the three Conventions signed at The Hague on the 29th. of July, 1899,*) hereby recognize as a part of Public International American Law the principles set forth therein.

Art. 2nd. With respect to the Conventions which are of an open character, the adherence thereto will be communicated to the Government of Holland through diplomatic channels by the respective Governments, upon the ratification thereof.

Art. 3rd. The wide general convenience being so clearly apparent that would be secured by confiding the solution of differences to be submitted to arbitration to the jurisdiction of a tribunal of so high a character as that of the Arbitration Court at The Hague, and, also, that the American Nations, not now signa-

aquí representan aumenta de una manera constante, en el sentido de favorecer vivamente la aplicación más amplia de los principios de Arbitramento: que las Repúblicas Americanas dirigidas por los mismos principios y responsabilidades del gobierno democrático y ligadas por crecientes intereses mutuos, pueden por sí mismas conservar la paz del Continente, y que la paz estable entre ellas será el propulsor más eficaz de su desarrollo nacional, así como del bienestar y grandeza comercial de sus pueblos.

En consecuencia convienen en el siguiente:

Proyecto.

Art. 1º. Las Repúblicas Americanas representadas en la Conferencia Internacional de México, no signatarias de las tres Convenciones firmadas en La Haya el 29 de Julio de 1899,*) reconocen los principios consignados en ellas, como parte del Derecho Público Internacional Americano.

Art. 2º. La adhesión respecto de las Convenciones que tienen el carácter de abiertas, una vez ratificadas por los Gobiernos respectivos, será comunicada port éstos y por la vía diplomática al de los Países Bajos para sus efectos.

Art. 3º. Siendo de notoria conveniencia general que las diferencias cuya solución se convenga someter á arbitraje, se confieran á la jurisdicción de un Tribunal de tan alta importancia como lo es la Corte de Arbitramento de La Haya, así como también que las Naciones Americanas no signatarias de la Convención que creó esa

*) V. N. R. G. 2. s. XXVI, p. 920, 949, 979.

tory to the Convention creating that beneficent institution, can become adherents thereto by virtue of an accepted and recognized right; and, further, taking into consideration the offer of the Government of the United States of America and the United States of Mexico, the Conference hereby confers upon said Governments the authority to negotiate with the other signatory Powers to the Convention for the Peaceful Adjustment of Internacional Differences, for the adherence thereto of the American Nations so requesting and not now signatory to the Said Convention.

benéfica institución, puedan ocurrir á ella en uso de un derecho reconocido y aceptado, y tomando, además, en consideración el ofrecimiento de los Gobiernos de los Estados Unidos de América y de los Estados Unidos de México, la Conferencia confiere á dichos Gobiernos el encargo de negociar con las demás Potencias signitarias de la Convención para el arreglo pacífico de los conflictos internacionales, la adhesión de las Naciones Americanas no signatarias de la misma Convención, que así lo solicitaren.

Por la Delegación de Guatemala: Antonio Lazo Arriaga, Francisco Orla. Delegados de México: G. Raigosa,[a] E. Pardo (jr.), Joaquín D. Casasús,[a] Alfredo Chavero,[a] José López-Portillo y Rojas,[a] Pablo Macedo,[a] Francisco L. de la Barra,[a] M. Sánchez Mármol,[a] Rosendo Pineda.[a] Por la Delegación Argentina: Antonio Bermejo, Lorenzo Anadón. Por la Delegación del Perú: Isaac Alzamora, Manuel Alvarez Calderón, Alberto Elmore. Por la Delegación del Uruguay: Juan Cuestas. El Delegado por Venezuela firma ad referendum; y además advierte que no quedan comprendidas en este tratado, por lo que á su país se refiere las cuestiones de navegación ni las que con ellas se relacionan. Por la Delegación de Venezuela: M. M. Galavís. J. B. Calvo,[a] Delegado de Costa Rica. Delegado de Haití, J. N. Léger. Delegados de la República Dominicana: Fed. Henríquez i Carva-

[a]) Los Excmos. Señores Delegados cuyos nombres van señalados con asterisco, firmaron el Protocolo el día de su envío á la Conferencia (15 de Enero 1902).

jal,[a] Quintín Guttiérrez. Cecilio Baez, Delegado de Paraguay. Fernando E. Guachalla, Delegado de Bolivia. Baltasar Estupinian, Delegado de El Salvador. Rafael Reyes,[a] Delegado de Colombia. Por la Delegación de Honduras y como Delegado de Nicaragua, F. Dávila.[a] William I. Buchanan,[a] Charles M. Pepper,[a] Volney W. Foster,[a] Delegados de los Estados Unidos de América.

Art. 4[th]. In order that the widest and most unrestricted application of the principle of just arbitration may be satisfactorily and definitely brought about at the earliest possible day, and, to the end that the most advanced and mutually advantageous form in which the said principle can be expressed in a Convention to be signed between the American Republics may be fully ascertained, the President of Mexico is hereby most respectfully requested to ascertain by careful investigation the views of the different Governments represented in the Conference regarding the most advanced form in which a General Arbitration Convention could be drawn that would meet with the approval and secure the final ratification of all the countries in the Conference, and, after the conclusion of this inquiry, to prepare a plan for such a General Convention as would apparently meet the wishes of all the Republics; and, if possible, arrange for a series of protocols to carry the plan into execution; or, if this should be found to be impracticable, then to present the correspondence with a report to the next Conference.

Mexico, January 15[th]. 1902.

Art. 4°. Para que se pueda llegar del modo más satisfactorio y rápido á la aplicación más amplia y menos restringida de los principios de justo arbitramento, y con el fin de que se pueda conocer con toda exactitud la forma más adelantada y mutuamente ventajosa en la cual dicho principio pueda ser expresado en una Convención que habrá de firmarse entre las Repúblicas Americanas, se suplica respetuosamente al Presidente de México, se sirva hacer constar, por una cuidadosa investigación, los propósitos de los distintos Gobiernos representados en esta Conferencia, respecto de la forma más adelantada por medio de la cual pudiera concertarse una Convención general de arbitramento, capaz de reunir el voto aprobatorio y la ratificación final de las Naciones representadas en la Conferencia, y que al terminar dicha investigación prepare un proyecto para dicha Convención general que llene las aspiraciones de todas las Repúblicas, y que, si es posible, forme protocolos parciales, á fin de poner en práctica dicho proyecto, ó bien, si esto no fuere practicable, presente á la próxima Conferencia esa correspondencia con el informe respectivo.

México, Enero 15 de 1902.—Delegación de Guatemala: Antonio Lazo Arriaga, Francisco Orla. Delegados de México: G. Raigosa, Joaquín D. Casasús, José López-Portillo y Rojas, E. Pardo (jr.), Pablo Macedo, Alfredo Chavero, F. L. de la Barra, Manuel Sánchez Mármol, Rosendo Pineda. J. N. Léger, Delegado de Haití. Delegación del Perú: Isaac Alzamora, Manuel Alvarez Calderón, Alberto Elmore. Delegación de los Estados Unidos de América: William I. Buchanan, Charles M. Pepper, Volney W. Foster. Uruguay: Juan Cuestas. Delegación Argentina: A. Bermejo Lorenzo Anadón. J. B. Calvo, Delegado de Costa Rica. Por la Delegación de Honduras y como Delegado de Nicaragua, F. Dávila. Cecilio Baez, Delegado del Paraguay. Fernando E. Guachalla, Delegado de Bolivia. Fed. Henríquez i Carvajal, Quintín Gutiérrez, Delegados de la República Dominicana. Rafael Reyes, Delegado de Colombia. Delegación de El Salvador: F. A. Reyes, Baltasar Estupinian.

II.

Translation of Treaty on Compulsory Arbitration.*)

City of Mexico,
January 29, 1902.

Department of State and of Foreign Affairs.—Mexico.—Bureau for America, Asia, and Oceania.

Tratado de Arbitraje obligatorio.*)

México, Enero 29 de 1902.

Secretaría de Estado y del Despacho de Relaciones Exteriores.—México.—Sección de América, Asia y Oceanía.

*) Ont ratifié le Salvador (le 28 mai 1902); — le Guatémala (le 25 août 1902); — l'Uruguay (le 31 janvier 1903); — le Mexique (le 17 avril 1903); — le Pérou (le 10 octobre 1903); — la République Dominicaine (le 30 septembre 1904).

In order that it be published, together with other documents relating to the Conference, and in compliance with your request, I have the honor of transmitting to you herewith a copy of the Treaty on Compulsory Arbitration, signed by some of the Delegations, which Treaty was sent by you to this Department as a project, for the purpose of raising it to the category of an International Convention.

Please accept the expression of my high esteem.—(Signed.)—Mariscal.—To the Secretary General of the American International Conference.

Art. 1st. The High Contracting Parties obligate themselves to submit to the decision of arbitrators all controversies that exist, or may arise, among them and which diplomacy cannot settle, provided that in the exclusive judgment of any of the interested Nations said controversies do not affect either the independence or the national honor.

Art. 2nd. Independence or national honor shall not be considered as involved in controversies with regard to diplomatic privileges, boundaries, rights of navigation, and validity, construction and enforcement of treaties.

Art. 3rd. By virtue of the power established in Article 26th. of the

A fin de que se publique, en unión de otros documentos relativos á la Conferencia, según se ha servido Ud. solicitarlo, tengo el honor de enviarle copia del Tratado de Arbitraje obligatorio subscrito por algunas de las Delegaciones, el cual en forma de proyecto fué remitido por Ud. á esta Secretaría, con el objeto de que fuese elevado á Convención Internacional.

Reitero á Ud. mi atenta consideración.—Mariscal.—Señor Secretario general de la Conferencia Internacional Americana.—Presente.

Los infrascritos, Delegados á la Segunda Conferencia Internacional Americana por la República Argentina, Bolivia, República Dominicana, Guatemala, El Salvador, México, Paraguay, Perú y Uruguay, reunidos en la ciudad de México, y debidamente autorizados por sus respectivos Gobiernos, han convenido en los siguientes artículos:

Art. 1°. Las Altas Partes Contratantes se obligan á someter á la decisión de árbitros todas las controversias que existen ó lleguen á existir entre ellas, y que no puedan resolverse por la vía diplomática, siempre que á juicio exclusivo de alguna de las Naciones interesadas, dichas controversias no afecten ni la independencia ni el honor nacionales.

Art. 2°. No se considerarán comprometidos ni la independencia ni el honor nacionales en las controversias sobre privilegios diplomáticos, límites, derechos de navegación, y validez, inteligencia y cumplimiento de tratados.

Art. 3°. En virtud de la facultad que reconoce el art. 26 de la

Convention for the peaceful adjustment of international differences signed at The Hague on July 29th. 1899,*) the High Contracting Parties agree to submit to the decision of the Permanent Court of Arbitration, created by such Convention, all the controversies referred to in the present Treaty, unless either of the parties prefers the establishment of a special tribunal.

In the event that the High Contracting Parties should submit to the jurisdiction of the Permanent Court of The Hague, they accept the precepts of said Convention, both with respect to the organization of the Tribunal as to its procedure.

Art. 4th. Whenever a special Tribunal should be organized on any account, whether it is so desired by any of the parties, or because the Permanent Court of Arbitration of The Hague should not be opened to them, the procedure to be followed shall be established at the time the arbitration agreement is signed. The Court shall determine the date and place of its sessions and the language to be used, and shall, in every case be invested with the authority to decide all questions relating to its own jurisdiction and even those referring to the procedure of points not considered in the arbitration agreement.

Art. 5th. If upon organizing a special Tribunal the High Contracting Parties should not agree upon the designation of the arbitrator, the Tribunal shall consist of three judges. Each State shall appoint an arbitrator

Convención, para el arreglo pacífico de los conflictos Internacionales, firmada en La Haya en 29 de Julio de 1899,*) las Altas Partes Contratantes convienen en someter á la decisión de la Corte Permanente de Arbitraje que dicha Convención establece, todas las controversias á que se refiere el presente Tratado, á menos que alguna de las Partes prefiera que se organice una jurisdicción especial.

En caso de someterse á la Corte Permanente de La Haya, las Altas Partes Contratantes aceptan los preceptos de la referida Convencion, tanto en lo relativo á la organización del Tribunal Arbitral, como respecto á los procedimientos á que éste haya de sujetarse.

Art. 4º. Siempre que por cualquier motivo deba organizarse una jurisdicción especial, ya sea porque así lo quiera alguna de las Partes, ya porque no llegue á abrirse á ellas la Corte Permanente de Arbitraje de La Haya, se establecerá, al firmarse el compromiso, el procedimiento que se haya de seguir. El Tribunal determinará la fecha y lugar de sus sesiones, el idioma de que haya de hacerse uso, y estará en todo evento investido de la facultad de resolver todas las cuestiones relativas á su propia jurisdicción y aun las que se refieren al procedimiento en los puntos no previstos en el compromiso.

Art. 5º. Si al organizarse la jurisdicción especial no hubiere conformidad de las Altas Partes Contratantes para designar el árbitro, el Tribunal se compondrá de tres jueces. Cada Estado nombrará un árbitro y

*) V. N. R. G. 2. s. XXVI, p. 936.

who will designate an umpire. Should the arbitrators fail to agree on this appointee, it shall be made by the Government of a third State, to be designated by the arbitrators appointed by the parties. If no agreement is reached with regard to this last appointment, each of the parties shall name a different Power and the election of the third arbitrator shall be made by the two Powers so designated.

Art. 6th. The High Contracting Parties hereby stipulate that, in case of a serious disagreement or conflict between two or more of them, which may render war imminent, they will have recourse, as far as circumstances allow, to the good offices or the mediation of one or more friendly powers.

Art. 7th. Independently of this recourse, the High Contracting Parties consider it useful, that one or more Powers, strangers to the dispute, should, on their own initiative, as far as circumstances will allow, offer their good offices or mediation to the States at variance.

The right to offer the Good Offices or Mediation belongs to Powers who are strangers to the conflict, even during the course of hostilities.

The exercise of this right shall never be regarded by either of the contending parties as an unfriendly act.

Art. 8th. The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

Art. 9th. The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute or by the

éstos designarán el tercero. Si no pueden ponerse de acuerdo sobre esta designación, la hará el Jefe de un tercer Estado, que indicarán los árbitros nombrados por las Partes. No poniéndose de acuerdo para este último nombramiento, cada una de las Partes designará una Potencia diferente, y la elección del tercero será hecha por las dos Potencias así designadas.

Art. 6°. Las Altas Partes Contratantes estipulan que, en caso de disentimiento grave ó de conflicto entre dos ó más de ellas, que haga inminente la guerra, se recurra, en tanto que las circunstancias lo permitan, á los buenos oficios ó á la mediación de una ó más de las Potencias amigas.

Art. 7°. Independientemente de este recurso, las Altas Partes Contratantes juzgan útil que una ó más Potencias, extrañas al conflicto, ofrezcan, espontáneamente, en tanto que las circunstancias se presten á ello, sus buenos oficios ó su mediación á los Estados en conflicto.

El derecho de ofrecer los buenos oficios ó la mediación pertenece á las Potencias extrañas al conflicto, aun durante el curso de las hostilidades.

El ejercicio de este derecho no podrá considerarse jamás por una ó por otra de las Partes Contendientes como un acto poco amistoso.

Art. 8°. El oficio de mediador consiste en conciliar las pretensiones opuestas, y en apaciguar los resentimientos que puedan haberse producido entre las Naciones en conflicto.

Art. 9°. Las funciones del mediador cesan desde el momento en que se ha comprobado, ya por una de las Partes contendientes, ya por el

mediator himself, that the methods of conciliation proposed by him are not accepted.

Art. 10th. Good Offices and Mediation, whether at the request of the parties at variance or upon the initiative of Powers, who are strangers to the dispute, have exclusively the character of advice, and never have binding force.

Art. 11th. The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, delaying or hindering mobilization, or other measures of preparation for war. If mediation occurs after the commencement of hostilities, it causes no interruption to the military operations in progress, unless there be an agreement to the contrary.

Art. 12th. In case of a serious difference endangering peace, and whenever the interested Powers cannot agree in electing or accepting as mediator a friendly Power, it is to be recommended to the States in dispute the election of a Power to whom they shall respectively entrust the mission of entering into direct negotiation with the Power elected by the other interested party, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the contending Powers shall cease all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers.

If these friendly Powers do not succeed in agreeing on a solution that would be acceptable to those in conflict, they shall designate a third

mediador mismo, que los medios de conciliación propuestos por éste no son aceptados.

Art. 10. Los buenos oficios y la mediación, ya que á ellos se recurra por las partes en conflicto ó por iniciativa de las potencias extrañas á él, no tienen otro carácter que el de consejo, y nunca el de fuerza obligatoria.

Art. 11. La aceptación de la mediación no puede producir el efecto, salvo convenio en contrario, de interrumpir, retardar ó embarazar la movilización ú otras medidas preparatorias de la guerra. Si la mediación tuviere lugar, rotas ya las hostilidades, no se interrumpe por ello, salvo pacto en contrario, el curso de las operaciones militares.

Art. 12. En los casos de diferencias graves que menacen comprometer la paz, y siempre que las Potencias interesadas no pueden ponerse de acuerdo para escoger ó aceptar como mediadora á una Potencia amiga, se recomienda á los Estados en conflicto la elección de una Potencia, á la cual confíen, respectivamente, el encargo de entrar en relación directa con la Potencia escogida por la otra Nación interesada, con el objeto de evitar la ruptura de las relaciones pacíficas.

Mientras dura este mandato, cuyo término, salvo estipulación en contrario, no puede exceder de treinta días, los Estados contendientes cesarán toda relación directa con motivo del conflicto, el cual se considerará como exclusivamente deferido á las Potencias mediadoras.

Si esas Potencias amigas no lograren proponer, de común acuerdo, una solución que fuere aceptable por las que se hallen en conflicto, desig-

that is to act as mediator. This third Power, in case of a definite rupture of pacific relations, shall at all times be charged with the task of taking advantage of any opportunity to restore peace.

Art. 13th. In controversies of an international nature arising from a difference of opinion on points of fact, the signatory Powers consider it useful that the parties who have not been able to come to an agreement by means of diplomacy, should, so far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of those differences, elucidating the facts by means of an impartial and conscientious investigation.

Art. 14th. The International Commissions of Inquiry are constituted by special agreement. The agreement defines the facts to be examined, and the extent of the Commissioner's powers, and settles the procedure to which they must limit themselves. On the inquiry both sides shall be heard, and the form and periods to be observed, if not stipulated by the agreement, shall be determined by the Commission itself.

Art. 15th. The International Commissions of Inquiry are constituted, unless otherwise stipulated, in the same manner as the Tribunal of Arbitration.

Art. 16th. The Powers in dispute engage to supply the International Commission of Inquiry, as fully as they may deem possible, with all

narán á una tercera, á la cual quedará confiada la mediación.

Esta tercera Potencia, caso de ruptura efectiva de las relaciones pacíficas, tendrá en todo tiempo el encargo de aprovechar cualquiera ocasión para procurar el restablecimiento de la paz.

Art. 13. En las controversias de carácter internacional, provenientes de divergencia de apreciación de hechos, las Repúblicas signatarias juzgan útil que las Partes que no hayan podido ponerse de acuerdo por la vía diplomática, instituyan, en tanto que las circunstancias lo permitan, una Comisión Internacional de Investigación, encargada de facilitar la solución de esos litigios, esclareciendo, por medio de un examen imparcial y concienzudo, las cuestiones de hecho.

Art. 14. Las Comisiones Internacionales de Investigación se constituyen por convenio especial de las Partes en litígio. El convenio precisará los hechos que han de ser materia de examen, así como la extensión de los poderes de los Comisionados, y arreglará el procedimiento á que deben éstos sujetarse. La investigación se llevará á término contradictoriamente; y la forma y los plazos que deben en ella observarse, si no se fijaren en el convenio, serán determinados por la Comisión misma.

Art. 15. Las Comisiones Internacionales de Investigación se constituirán, salvo estipulación en contrario, de la misma manera que el Tribunal de Arbitraje.

Art. 16. Es obligación de las Potencias en litigio, ministrar, en la más amplia medida que juzguen posible, á la Comisión Internacional

means and facilities necessary to enable it to be completely acquainted with and to accurately understand the facts in question.

Art. 17th. The above mentioned Commissions shall limit themselves to ascertain the truth of the facts alleged, without entering into any other appreciations than those merely technical.

Art. 18th. The International Commission of Inquiry shall present its report to the Powers which have constituted it, signed by all its members. This report, limited to the investigation of facts, has in no manner the character of an arbitral award, and it leaves the contending parties at liberty to give it the value they may deem proper.

Art. 19th. The constitution of Commissions of Inquiry may be included in the Arbitration Bonds, as a previous proceeding, to the end of determining the facts which are to be the subject of the Inquiry.

Art. 20th. The present Treaty does not abrogate any previous existing ones, between two or more of the Contracting Parties, in so far as they give greater extension to compulsory Arbitration. Neither does it alter the stipulations regarding Arbitration, relating to specific questions which have already arisen, nor the course of arbitration proceedings which may be pending by reason of the same.

Art. 21st. Without the necessity of exchanging ratifications, this Treaty shall take effect so soon as three States, at least, of those signing it, express their approval to the Government of the United States of Mexico, which shall communicate it to the other Governments.

de Investigación, todos los medios y facilidades necesarios para el conocimiento completo y la exacta apreciación de los hechos controvertidos.

Art. 17. Las Comisiones mencionadas se limitarán á averiguar la verdad de los hechos sin emitir más apreciaciones que las meramente técnicas.

Art. 18. La Comisión Internacional de Investigación presentará á las Potencias que la hayan constituído, su informe firmado por todos los miembros de la Comisión. Este informe, limitado á la investigación de de los hechos, no tiene en lo absoluto el carácter de sentencia arbitral, y deja á las Partes contendientes en entera libertad de darle el valor que estimen justo.

Art. 19. La constitución de Comisiones de Investigación podrá incluirse en los compromisos de arbitraje, como procedimiento previo á fin de fijar los hechos que han de ser materia del juicio.

Art. 20. El presente Tratado no deroga los anteriores existentes entre dos ó más de las Partes Contratantes, en cuanto dén mayor extensión al arbitraje obligatorio. Tampoco altera las estipulaciones sobre arbitraje, relativas á cuestiones determinadas que han surgido ya, ni el curso de los juicios arbitrales que se siguen con motivo de éstas.

Art. 21. Sin necesidad de canje de ratificaciones, este Tratado estará en vigor desde que tres Estados, por lo menos, de los que lo subscriben, manifiesten su aprobación al Gobierno de los Estados Unidos Mexicanos, el que la comunicará á los demás Gobiernos.

Art. 22nd. The nations which do not sign the present Treaty, may adhere to it at any time. If any of the signatory nations should desire to free itself from its obligations, it shall denounce the Treaty; but such denouncement shall not produce any effect except with respect to the nation which may denounce it, and only one year after the notification of the same has been made.

Whenever the denouncing nation shall have any arbitration negotiations pending at the expiration of the year, the denouncement shall not have any effect with reference to the case not yet decided.

Art. 22. Las Naciones que no subscriban el presente Tratado, podrán adherirse á él en cualquier tiempo. Si alguna de las signatarias quisiere recobrar su libertad, denunciará el Tratado; mas la denuncia no producirá efecto sino únicamente respecto de la Nación que la efectuare, y sólo después de un año de formalizada la denuncia. Cuando la Nación denunciante tuviere pendientes algunas negociaciones de arbitraje á la expiración del año, la denuncia no surtirá sus efectos con relación al caso aun no resuelto.

General Provisions.

I. This Treaty shall be ratified as soon as possible.

II. The ratifications shall be forwarded to the Department for Foreign Relations of Mexico, where they shall be deposited.

III. The Mexican Government shall send a certified copy of each of them to the other Contracting Governments.

In virtue whereof they have signed the present Treaty and have attached their respective seals thereto.

Made in the City of Mexico, on the twenty-ninth day of January one thousand nine hundred and two, in one single copy, which shall be deposited in the Department for Foreign Relations of the United Mexican States, a certified copy of which shall be sent, through diplomatic channels, to each of the Contracting Governments.

Disposiciones Generales.

I. El presente Tratado será ratificado tan pronto como sea posible.

II. Las ratificaciones se enviarán al Ministerio de Relaciones Exteriores de México, donde quedarán depositadas.

III. El Gobierno Mexicano remitirá copia certificada de cada una de ellas á los demás Gobiernos Contratantes.

En fe de lo cual han firmado el presente Tratado y le han puesto sus respectivos sellos.

Hecho en la ciudad de México, el día veintinueve de Enero de año de mil novecientos dos en un solo ejemplar que quedará depositado en el Ministerio de Relaciones Exteriores de los Estados Unidos Mexicanos, del cual se remitirá, por la vía diplomática, copia certificada á los Gobiernos Contratantes.

Por la República Argentina,

(L. S.) (Firmado) *Antonio Bermejo.*

(L. S.) (Firmado) *Lorenzo Anadón.*

Por Bolivia,

(L. S.) (Firmado) *Fernando E. Guachalla.*

Por la República Dominicana,

(L. S.) (Firmado) *Federico Henríquez i Carvajal.*

Por Guatemala,

(L. S.) (Firmado) *Francisco Orla.*

Por El Salvador,

(L. S.) (Firmado) *Francisco A. Reyes.*
(L. S.) (Firmado) *Baltasar Estupinian.*

Por México,

(L. S.) (Firmado) *G. Raigosa.*
(L. S.) (Firmado) *Joaquín D. Casasús.*
(L. S.) (Firmado) *Pablo Macedo.*
(L. S.) (Firmado) *E. Pardo, jr.*
(L. S.) (Firmado) *Alfredo Chavero.*
(L. S.) (Firmado) *José López-Portillo y Rojas.*
(L. S.) (Firmado) *F. L. de la Barra.*
(L. S.) (Firmado) *Rosendo Pineda.*
(L. S.) (Firmado) *M. Sánchez Mármol.*

Por el Paraguay,

(L. S.) (Firmado) *Cecilio Baez.*

Por el Perú,

(L. S.) (Firmado) *Manuel Alvarez Calderón.*
(L. S.) (Firmado) *Alberto Elmore.*

Por el Uruguay,

(L. S.) (Firmado) *Juan Cuestas.*

III.

Treaty of Arbitration for Pecuniary Claims.*)

Their excellencies the presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaraguá, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following delegates:

For the Argentine Republic.—Their excellencies Antonio Bermejo, Martín García Mérou, Lorenzo Anadon.

For Bolivia.—His excellency Fernando E. Guachalla.

For Colombia.—Their excellencies Carlos Martinez Silva, General Rafael Reyes.

For Costa Rica.—His excellency Joaquin Bernardo Calvo.

For Chili.—Their excellencies Alberto Blest Gana, Emilio Bello Codecido, Joaquin Walker Martinez, Augusto Matte.

For the Dominican Republic.—Their excellencies Federico Henriquez y Carvajal, Luis Felipe Carbo, Quintin Gutierrez.

For Ecuador.—His excellency Luis Felipe Carbo.

For El Salvador.—Their excellencies Francisco A. Reyes, Baltasar Estupinián.

For the United States of America.—Their excellencies Henry G. Davis, William I. Buchanan, Charles M. Pepper, Volney W. Foster, John Barrett.

For Guatemala.—Their excellencies Antonio Lazo Arriaga, Colonel Francisco Orla.

For Haiti.—His excellency J. N. Léger.

For Honduras.—Their excellencies José Leonard, Fausto Dávila.

For Mexico.—Their excellencies Genaro Raigosa, Joaquín D. Casasús, José López Portillo y Rojas, Emilio Pardo, jr., Pablo Macedo, Alfredo Chavero, Francisco L. de la Barra, Manuel Sánchez Mármol, Rosendo Pineda.

For Nicaragua.—His excellency Luis F. Corea, his excellency Fausto Davila.

For Paraguay.—His excellency Cecilio Baez.

For Peru.—Their excellencies Isaac Alzamora, Alberto Elmore, Manuel Alvarez Calderón.

For Uruguay.—His excellency Juan Cuestas;

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*) Ont ratifié le Salvador (le 19 mai 1902); — le Guatémala (le 25 avril 1902); — le Pérou (le 29 octobre 1903); — le Honduras (le 15 juillet 1904); — les Etats-Unis d'Amérique (le 28 janvier 1905); — le Mexique (le 1er mai 1905); — la Colombie (le 29 août 1908); — la Costa Rica (le 26 octobre 1908); — le Nicaragua (en 1909?).

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act „ad referendum," have agreed, to celebrate a Treaty to submit to the decision of arbitrators Pecuniary Claims for damages that have not been settled by diplomatic channel, in the following terms:

Art. 1. The High Contracting Parties agree to submit to arbitration all claims for pecuniary loss or damage which may be presented by their respective citizens, and which cannot be amicably adjusted through diplomatic channels and when said claims are of sufficient importance to warrant the expenses of arbitration.

Art. 2. By virtue of the faculty recognized by Article 26 of the Convention of The Hague for the pacific settlement of international disputes, the High Contracting Parties agree to submit to the decision of the permanent Court of Arbitration established by said Convention, all controversies which are the subject matter of the present Treaty, unless both Parties should prefer that a special jurisdiction be organized, according to Article 21 of the Convention referred to.

If a case is submitted to the Permanent Court of the Hague, the High Contracting Parties accept the provisions of the said Convention, in so far as they relate to the organization of the Arbitral Tribunal, and with regard to the procedure to be followed, and to the obligation to comply with the sentence.

Art. 3. The present Treaty shall not be obligatory except upon those States which have subscribed to the Convention for the pacific settlement of international disputes, signed at The Hague, July 29, 1899, and upon those which ratify the Protocol unanimously adopted by the Republics represented in the Second International Conference of American States, for their adherence to the Conventions signed at The Hague, July 29, 1899.

Art. 4. If, for any cause whatever, the Permanent Court of The Hague should not be opened to one or more of the High Contracting Parties, they obligate themselves to stipulate, in a special Treaty, the rules under which the Tribunal shall be established, as well as its form of procedure, which shall take cognizance of the questions referred to in article 1 of the present Treaty.

Art. 5. This Treaty shall be binding on the States ratifying it, from the date on which five signatory governments have ratified the same, and shall be in force for five years. The ratification of this Treaty by the signatory States shall be transmitted to the Government of the United States of Mexico, which shall notify the other Governments of the ratifications it may receive.

In testimony whereof the Plenipotentiaries and Delegates also sign the present Treaty, and affix the seal of the Second International American Conference.

Made in the City of Mexico the thirtieth day of January nineteen hundred and two, in three copies, written in Spanish, English and French, respectively, which shall be deposited with the Secretary of Foreign Relations of the Mexican United States, so that certified copies thereof be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*

For Ecuador,
(Signed) *L. E. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

IV.

Pan-American Railway Resolution.

The undersigned, delegates of the Republics represented at the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

The Second International American Conference,

Considering that the three corps of engineers employed by the former committee on intercontinental railway have made explorations from the northern limit of Guatemala to the northern limit of the Argentine Republic during the years 1893 and 1894, and have presented their report on the work, accompanied by the respective maps; and,

Considering that the said report shows that it is practicable to construct a railway which will traverse the Republics of the Continent from north to south; and that in case the railways in actual operation are utilized, the length of the lines to be constructed would be 5,456 miles, and the estimated cost of the entire work would be $174,290,271 gold, or $32,000 gold, per mile; and,

Considering that it is a wellknown fact that railroads develop the natural resources, increase the commerce and wealth, and add to the general prosperity of the countries traversed by them; and,

Considering that international railways consolidate the friendly relations among States, unite them by common interest, and assure peace between them,

Resolves:

First. That it ratifies the resolution of the Washington Conference, which recommended*) the construction of the complementary lines of the international railway, which is to traverse the different Republics, uniting the railway systems of the United States with those of the Argentine Republic, and connecting the principal cities situated on the line of said railroad, as much as the common interests may permit, or, in case this should be impracticable, to construct branch lines to connect said cities with the main trunk line; and, finally, utilizing the lines already in operation, wherever such may be possible and compatible with the surveys and conditions of international railways.

Second. That the Republics interested in the execution of this work assist it in every way that may be in their power, and especially that they exempt the same from import duties on the materials necessary for the construction and operation of the railway, but with the necessary provisions to prevent abuses of such privilege; and that the real and personal properties of the enterprise be exempted from all national, State, provincial, and municipal taxes; exempting it from all custom-house and other duties on its traffic in transit through the different Republics; and that they assist the enterprise as much as possible by subsidies, grants of lands,

*) V. ci-dessus, p. 121, 122.

or by the guaranteeing of a maximum interest on the capital invested in each country.

For that purpose it is hereby recommended that all persons who favor the construction of the said railway earnestly endeavor to procure from the respective governments the granting in favor of this enterprise of these or other liberal subsidies, such as may be found most convenient and feasible in each country.

Third. That the United States of America be invited to initiate with the representatives and diplomatic officers of the other Republics accredited in Washington the adoption of such measures as may be deemed best calculated to result in sending to the said Republics, within one year, competent and reliable persons, whose duty it shall be to accurately determine the resources of each country and the location and condition of the railway lines now in operation, the existing condition of their commerce and the prospects for business for an intercontinental line, in case said line be constructed, and also to ascertain what concessions each of the respective Governments is willing to grant to the enterprise.

Fourth. That the president of the conference shall appoint a committee of five members, resident in the United States of America, which shall enter upon its functions after the adjournment of this conference, with power to increase the number of its members and to substitute them whenever necessary; to appoint such subcommittees as may be deemed proper, and to report to the next conference on the result of its labors; to furnish all possible information on the work of the intercontinental railway, and to aid and stimulate the successful execution of said project as much as possible, all of which, however, shall not prevent the members of the present committee from continuing their efforts to attain the same end; and, finally, that the commission, in accord with the Secretary of State of the United States of America, and with the ministers of the interested countries resident in Washington, may cause to be convoked, within the period of one year, an assembly composed of duly authorized representatives of all the Republics of this continent, for the purpose of perfecting a convention to arrange for the construction of the proposed intercontinental railway.

Made and signed at the city of Mexico, on the 21[st] day of the month of January, 1902, in three copies, written in the Spanish, English, and French languages, respectively, which shall be deposited in the department of foreign relations of the Government of the Mexican United States, so that certified copies thereof may be made in order to transmit them, through the diplomatic channel, to each one of the signatory powers.

For the Argentine Republic,

(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,

(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico.
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

V.

Customs congress resolution.

The undersigned, delegates of the Republics represented at the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

The Second International American Conference

Resolves:

First. That within one year from the date of the closing of the sessions of the American International Conference, there shall meet in the city of New York, United States of America, a customs congress, composed of one or more delegates, appointed by each Government from among its chief customs officers, consuls, presidents or members of their chambers of commerce, prominent merchants, or other persons known to possess technical and special knowledge in all customs matters.

The governing board of the International Bureau of American Republics shall fix the date for the assembling of the customs congress, which shall be organized as it may decide, with the assistance or cooperation of the officials of said international bureau, and its purpose and

object shall be to decide and pass upon all propositions, which may be presented by the delegates or by the committees which may be appointed, in respect to the customs service of each country and the legitimate collection of its fiscal dues.

Second. The matters which the customs congress is to resolve upon are the following:

A. The uniformity of regulations for the entry, dispatch, and clearance of the vessels engaged in international commerce.

B. The uniformity and simplification of customs formalities with regard to the manifests of vessels, wording of the same, and facts to be contained in the consular invoices and declarations to the custom-houses.

C. The simplification and uniformity of custom-house formalities in the clearance of merchandise and baggage.

D. Adequate means for establishing a common nomenclature of products and merchandise of the American Republics in English, Spanish, Portuguese, and French.

First. In order that it may become the basis for the statistical data of imports and exports in conformity with uniform models and without interfering with the regulations which each country may have adopted for its own statistics; and

Second. In order that with greater details and specifications it may be adopted in the tariff schedules and in the other customs laws of said countries, and that it may become the basis for the collection of the dues which each one of them may have established.

E. Adoption of a simple and uniform system for declarations and the custom-house dispatch of samples and merchandise forwarded in postal packages or parcels.

F. To simplify and make uniform the custom-house formalities, to which shall be subjected all merchandise or goods crossing only the territory of one country and destined for use or consumption in another or others, thus respecting the principle of free commercial transit on terrestrial or fluvial highways of the nations of America, without collecting duties or charges other than those which may represent the just compensation for services rendered.

G. The advisability of determining definite periods for the assembling of future customs congresses.

H. To deal with any other matters germane to those herein mentioned, or which may be considered in a general way by the customs congress, as useful or proper to aid in the development of mercantile traffic.

I. The organization of a permanent customs commission, composed of individuals possessing technical and expert knowledge, and which, as a branch of the International Bureau of American Republics, or in any other form which the said congress may deem proper, shall be charged principally with the execution of the resolutions which it may have adopted, with the comparison and study of custom and tariff laws of the nations of America, in order to suggest to the respective Governments, the pro-

mulgation of laws and measures which, with regard to custom-house formalities, may tend to simplify and to facilitate mercantile traffic.

Third. That in order to render useful and complete the study at the hands of the customs congress of the question referred to in Paragraph D of the preceding resolution, each one of the Governments of the American Republics shall cause to be studied, by the chief administrative officials of custom-houses, the nomenclature or vocabulary formed by the international bureau of said Republics, and that the Governments shall send as rapidly as possible to the governing board of said bureau their remarks or the corrections which they may have thought proper to suggest in the said vocabulary.

Said international bureau shall present to the customs congress, in the simplest and most complete form possible, the suggestions made by the Governments, and in addition, a French translation of the nomenclature already published.

Fourth. The ratification of the present resolution by the Governments of the American Republics, which may think proper to take such action, shall be communicated to the governing board of the international bureau of said Republics within six months from the closing of the conference.

Made and signed at the City of Mexico, on the 22nd day of the month of January, 1902, in three copies, written in the Spanish, English, and French languages, respectively, which shall be deposited in the Department of Foreign Relations of the Government of the Mexican United States, so that certified copies thereof may be made, in order to transmit them, through the diplomatic channel, to each one of the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chile,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*
(Signed) *L. F. Carbo.*
(Signed) *Quintin Gutierrez.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Dávila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Dávila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

VI.

Resolution.

Measures tending to facilitate international commerce.

The undersigned delegates of the Republics represented in the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

The Second International American Conference resolves:

The customs congress, which is to meet in New York, United States of America, in accordance with the resolutions of this conference, adopted in its session of the 27th of December, 1901, in the course of its labors shall investigate the following subjects:

A. The simplification of charges collected from merchant vessels, limiting them to that of tonnage only, which shall be collected in an equitable manner from the vessels which may bring cargo, and from those in ballast.

B. Uniformity in the collection of the charges to which the foregoing article refers, taking as a basis the gross tonnage of the vessels.

C. The advisability that all the Governments of the Republics of America should enact laws, ordinances, or port regulations facilitating the entry and clearance of vessels with the greatest possible dispatch.

D. Measures tending to facilitate the loading and unloading of vessels.

E. Adoption of a maritime and administrative nomenclature for the custom-houses, in which all articles upon which duties are charged at present, or upon which they may be charged in the future, shall be enumerated in alphabetical order, and in equivalent terms, in English, Spanish, Portuguese, and French, in order that this nomenclature may be used in manifests, consular invoices, entries, permits, and other custom-house documents.

The customs congress shall submit the result of its labors relating to the subjects mentioned in this report to the Republics of America.

Made and signed in the City of Mexico on the 29th day of the month of January, 1902, in three copies, in Spanish, English, and French,

respectively, which shall be deposited in the department of foreign relations of the Government of the United States of Mexico, in order that certified copies thereof be made, to be forwarded through diplomatic agency to each one of the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chile,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*
(Signed) *L. F. Carbo.*
(Signed) *Quintín Gutiérrez.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti (Under reservation of paragraphs A and B),
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo*, jr.
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

VII.

Resolution concerning international sanitary police.

The undersigned, delegates of the Republics represented in the second international American conference, duly authorized by their Governments, have approved the following resolution:

The second international American conference recommends:

The early adoption by the Republics represented therein of the following resolutions:

First. That all measures relating to the subjects of international quarantine, the prevention of the introduction of contagious diseases into a country, and the establishment and control of maritime and of international land detention, or health stations, shall be wholly within the control of the national Governments.

Second. That there shall be established in the ports of each country two kinds of detention—(*a*) that for inspection or observation, and (*b*) that for disinfection.

Third. That prohibitive quarantine on manufactures and merchandise shall be abolished and that merchandise proceeding from non-infected ports or places, and which passes through infected territory without being detained therein beyond the necessary time of transit, shall not be subject to detention or other sanitary measures beyond that of the inspection which may be considered necessary at its destination, and that such inspection and delay shall not exceed the time absolutely necessary therefor. Further, that this same regulation shall apply equally to international communication by railway, provided that live stock, hides, rags, and immigrants' effects be excepted from the above provisions.

Fourth. That the Governments represented in this conference shall cooperate with each other, and lend every possible aid to the municipal, provincial, and local authorities, within their respective limits, toward securing and maintaining efficient and modern sanitary conditions in all their respective ports and territories, to the end that quarantine restrictions may be reduced to a minimum, and finally abolished. Further, that each and all of their respective health organizations shall be instructed to notify promptly the diplomatic or consular representatives of the Republics represented in this conference, stationed within their respective territories, of the existence or progress, within their several respective territories, of any of the following diseases: Cholera, yellow fever, bubonic plague, smallpox, and of any other serious pestilential outbreak. And that it shall be made the duty of the sanitary authorities in each port, prior to the sailing of a vessel, to note on the vessel's bill of health the transmissible diseases which may exist in such port at that time.

Fifth. The second international conference of the American States further recommends, in the interest of the mutual benefit that would be derived therefrom by each of the American Republics, and that they may more readily and effectively cooperate one with the other in all matters appertaining to the subjects mentioned in the above resolutions, that a general convention of representatives of the health organizations of the different American Republics shall be called by the governing board of the International Union of American Republics to meet at Washington, D. C., within one year from the date of the adoption of these resolutions

by this conference; that each Government represented in this conference shall designate one or more delegates to attend such convention; that authority shall be conferred by each Government upon its delegates to enable them to join delegates from the other Republics in the conclusion of such sanitary agreements and regulations as in the judgment of said convention may be in the best interests of all the Republics represented therein; that voting in said convention shall be by Republics, each Republic represented therein to have one vote; that said convention shall provide for the holding of subsequent sanitary conventions at such regular times and at such places as may be deemed best by the convention; and that it shall designate a permanent executive board of not less than 5 members, who shall hold office until the next subsequent convention, at which time the board shall be appointed with a chairman to be elected by ballot by the convention; the said executive board to be known as the „international sanitary bureau," with permanent headquarters at Washington, D. C.*)

Sixth. That, in order that the international sanitary bureau thus provided for may render effective service to the different Republics represented in the convention, the said Republics shall promptly and regularly transmit to said bureau all data of every character relative to the sanitary condition of their respective ports and territories and furnish said bureau every opportunity and aid for a thorough and careful study and investigation of any outbreaks of pestilential diseases which may occur within the territory of any of the said Republics, to the end that said bureau may by those means be enabled to lend its best aid and experience toward the widest possible protection of the public health of each of the said Republics, and that commerce between said Republics may be facilitated.

Seventh. That the salaries and expenses of the delegates to the convention and of the members of the international sanitary bureau herein referred to and recommended, shall be paid by their respective Governments, but that the office expenses of spezial investigations it may make, together with those for the translation, publication and distribution of reports, shall be paid from a special fund to be created by annual appropriations by the Republics represented in such conventions, on the same basis now in force between the American Republics for the maintenance of the bureau of American Republics. Further, that in the interest of economy, the said Bureau of American Republics shall be utilized by the conventions herein referred to, and by the international sanitary bureau herein recommended to the fullest extent possible, for the correspondence, accounting, disbursing, and preservation of the records incident to the work comprised within these resolutions.

Made and signed in the City of Mexico on the 29th day of the month of January, 1902, in three copies, in Spanish, English, and French, respectively, which shall be deposited in the department of foreign relations of the Government of the United States of Mexico, in order that certified

*) V. Convention du 14 octobre 1905, N. R. G. 3. s. II, p. 277.

copies thereof be made to transmit them through diplomatic channels to each one of the signatory States.

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*
(Signed) *L. F. Carbo.*
(Signed) *Quintín Gutiérrez.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Dávila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez Portillo y Rojas.*
(Signed) *Pablo Macedo.*
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(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pinedo.*

For Nicaragua,
(Signed) *F. Dávila.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

VIII.

Resolution.

Reorganization of the International Bureau of the American Republics.*)

The undersigned, delegates of the Republics represented in the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

*) Comp. la Résolution de la Première Conférence, ci-dessus p. 130.

The Second International American Conference resolves:

Article 1. The International Bureau of the American Republics shall be under the management of a governing board, which shall consist of the Secretary of State of the United States of America, who shall be its chairman, and the diplomatic representatives of all the Governments represented in the bureau and accredited to the Government of the United States of America. The governing board shall hold regular meetings once every month, excepting in June, July, and August, and such special meetings as may be called by the chairman, or on request of two members of the governing board; and the presence of five at any regular or special meeting shall be sufficient to constitute a quorum empowered to transact any business which may come before the board. The governing board shall appoint such committees as it may deem proper.

Art. 2. All the positions in the bureau shall be filled after examination of the aplicants by an examining board. Said applicants shall present their applications upon blanks, to be furnished by the director of the bureau, on which the applicants shall state the particular service which they desire to perform; they shall inscribe their names on a register kept by the director, wherein all the details of the examination shall be recorded, and the examining board can only recommend for special positions applied for and to be filled those who may show their qualifications for the performance of the duties of said position. The appointments shall be made by the governing board and shall be signed by the chairman.

Art. 3. The governing board, with the cooperation of the director of the bureau, shall annually prepare an itemized budget for the expenses of the succeeding year. This budget shall be transmitted to each Government represented in the bureau, together with a statement showing the proportionate amount which is to be paid by said Government based upon the agreement of April 14, 1890, which amounts each Government, by its acceptance of these regulations, shall agree to transmit to the Secretary of State of the United States six months in advance.

Art. 4. The governing board may at any time appoint one or two of its members to examine the accounts of the bureau and report to said board.

Art. 5. The bureau shall have authority to correspond, through the diplomatic representatives in Washington, with the executive departments of the several American Republics, and shall furnish such information as it possesses or can obtain to any of said Republics so requesting. Each of the Republics agrees to facilitate the gathering of information by the bureau as far as practicable, and promptly to send thereto two copies of each of its official publications, which shall be preserved in the library of the bureau, and to supply such other information as, from time to time, may be requested by the director of the bureau.

Art. 6. The bureau shall publish a monthly bulletin which shall be printed in the English, Spanish, Portuguese, and French languages, or

separately in each language, and which shall contain laws and statistical information of special interest to the inhabitants of the several Republics.

The bureau shall publish such pamphlets, maps, topographical and geographical charts, and other documents as the governing board may direct.

Art. 7. As soon as the present contracts for advertising in the bulletin shall have expired, no further advertisements shall be published.

Art. 8. Publications of the bureau shall be considered public documents and shall be carried free in the mails of all the Republics.

Art. 9. The bureau shall be charged especially with the performance of all the duties imposed upon it by the resolutions of the present International Conference.

Art. 10th. The director of the bureau may attend the meetings of the governing board and all its committees, and also the sessions of the international conference of the American Republics, for the purpose of giving information when called upon for it.

Art. 11th. The bureau shall be the custodian of the archives of the international conferences of the American Republics.

Art. 12th. The resolutions of the First International Conference of the American Republics, adopted April 14, 1890, shall remain in force, so far as they are not in conflict with these regulations; and all other resolutions and plans for the reorganization of the bureau are hereby annulled.

Art. 13th. Under the authority of the governing board of the International Union of the American Republics and as a section of the bureau of said Republics, a Latin-American Library is established to be named „Biblioteca de Colón“ (*Columbus Library*).

Made and signed in the City of Mexico, on the 29th day of the month of January, 1902, in three copies, in Spanish, English, and French, respectively, which shall be deposited in the department of foreign relations of the Government of the United States of Mexico, in order that certified copies thereof be made to be forwarded through diplomatic agency to each one of the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chile,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*
(Signed) *L. F. Carbo.*
(Signed) *Quintín Gutiérrez.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonhard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*

For Mexico,
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

IX.

Resolution.

Sources of production and statistics.

The undersigned, delegates of the Republics represented at the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

The Second International American Conference resolves:

First. That the American Governments send, from time to time, at the latest every year, to the Bureau of American Republics, the most complete information and statistical data which it may be possible for them to procure, with regard to their populations and natural resources, as well as the statistical data on manufactures and commerce and on any other matter which they may deem useful for the development of the economic relations of America.

Second. That the said bureau give special attention to the obtaining of the statistical data to which the foregoing clause refers; and, as soon as the same are received, to classify, properly arrange, and publish them.

Third. That the said Republics renew and send, from time to time, to the permanent exhibitions already established or to be established on the American continent, samples of their natural and industrial products,

accompanying them with such information as may tend to contribute to the development of their reciprocal commerce, without prejudice to the separate exhibitions, which all or any of the Republics may wish to establish within their own territory.

Fourth. That the data on weights and measures be given according to the decimal system, with a statement of their equivalents, according to the system of each nation that may have a system distinct from the decimal one.

Fifth. That in order to express values, the standard gold coin of the United States of America be taken as a basis, stating its relation to the standard of other nations at the average rate of exchange of each corresponding year.

Sixth. That in order to obtain uniformity in the valuation of international commercial articles, the price fixed for the same be that which they represent on board at the ports of destination expressed in gold coin of the United States of America,

Made and signed at the City of Mexico on the 23rd day of the month of January, 1902, in three copies written in the Spanish, English, and French languages, respectively, which shall be deposited in the department of foreign relations of the Government of the Mexican United States, so that certified copies thereof may be made in order to transmit them, through the diplomatic channel, to each one of the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
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For Chile,
(Signed) *Augusto Matte.*
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(Signed) *Emilio Bello C.*

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For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

X.

Resolution concerning the meeting of a congress for the study of the production and consumption of coffee.

The undersigned, delegates of the Republics represented in the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

The Second International American Conference resolves:

First. That within one year from the close of the sessions of the International American Conference there shall meet in the city of New York, United States of America, a commission composed of one or more delegates appointed by each Government which may desire to be represented, and who must possess technical and expert knowledge regarding the production, distribution, and consumption of coffee.

Second. The governing board of the International Union of the American Republics shall appoint the day on which said commission is to assemble. Said commission will be organized in the manner it may decide upon, with the assistance of said bureau, and it shall have for its object the investigation of the causes which at the present time are producing the crisis through which that great industry is passing, and to propose practical means to prevent or abate the same.

Made and signed in the City of Mexico, on the 29th day of the month of January, 1902, in three copies, in Spanish, English, and French, respectively, which shall be deposited in the department of foreign relations of the Government of the United States of Mexico, in order that certified copies thereof be made, to transmit them through diplomatic channel to each one of the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*
(Signed) *L. F. Carbo.*
(Signed) *Quintin Gutierrez.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
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For Haiti,
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For Honduras,
(Signed) *J. Leonard.*
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For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XI.

Recommendation on the creation of an international archæological commission.

The undersigned, delegates of the Republics represented in the Second International American Conference, duly authorized by their Governments, have approved the following recommendation:

The Second International American Conference recommends to the Republics here represented that an „American international archæological commission" be formed through the appointment by the President of each of the American Republics of one or more members of such commission; that each Government represented shall defray the expenses of its commissioner or commissioners; that such commissioners shall be appointed for five years, and that they shall be subject to reappointment; that appropriations for the expenses incident to the prosecution of the work and publications of the report of the archæological commission shall be

made by the respective Governments subscribing on the same basis as that on which the Bureau of the American Republics is supported; that the first meeting for the organization of the commission, the election of officers, and adoption of rules shall occur in the city of Washington, District of Columbia, United States of America, within two years from this date; that the accounting department of the commission shall be exercised by the Bureau of the American Republics; that this commission shall meet at least once in each year; that the commission shall have the power to appoint subcommissions, which shall be charged specially with the explorations or other work committed to their care; that subcommissions may be appointed which shall cause the cleaning and preservation of the ruins of the principal prehistorical cities, establishing at each of them a museum to contain objects of interest found in the locality, and at such exhumed cities to establish conveniences for the visiting public; that the commission endeavor to establish an „American international museum," which is to become the center of all the investigations and interpretations, and that it be established in the city selected by the majority of the Republics acquiescing in this recommendation.

Committees shall also be appointed to clean and conserve the ruins of ancient cities, establishing in each of them a museum to contain the antiquities that may be gathered, and which is to afford all possible accommodations to visitors.

The archæological commission and the subcommittees it may appoint will be subject in all matters to the laws of the signatory countries.

Made and signed in the City of Mexico, on the 29th day of the month of January, 1902, in three copies, in Spanish, English, and French, respectively, which shall be deposited in the department of foreign relations of the Government of the United States of Mexico, in order that certified copies thereof be made to be forwarded through diplomatic agency to each one of the signatory States.

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chile,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*
(Signed) *L. F. Carbo.*
(Signed) *Quintin Gutierrez.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XII.

Resolution.

The Republics assembled at the International Conference of Mexico applaud the purpose of the United States Government to construct an interoceanic canal, and acknowledge that this work will not only be worthy of the greatness of the American people, but also in the highest sense a work of civilization and to the greatest degree beneficial to the development of commerce between the American States and the other countries of the world.

XIII.

Pan-American Bank.

Recommendation.

The undersigned, delegates of the Republics represented at the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

The Second International American Conference, considering

That a powerful banking institution established in a great mercantile center of the Continent, with branches in the principal cities of the American Republics, would develop mercantile relations among them;

And that, if said institution should adopt uniform rules for the granting of credits and charging of commissions, it would afford even greater advantages to industry, and be well received by all the American nations:

Recommends that there be established in New York, Chicago, San Francisco, New Orleans, Buenos Ayres, or any other important mercantile center a bank of the character before mentioned, and that it be assisted by the Republics of America in every manner compatible with the internal legislation of each country.

Made and signed at the City of Mexico on the 21st day of the month of January, 1902, in three copies, written in the Spanish, English, and French languages, respectively, which shall be deposited in the department of foreign relations of the Government of the Mexican United States, so that certified copies thereof may be made in order to transmit them, through the diplomatic channel, to each one of the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*
(Signed) *L. F. Carbo.*
(Signed) *Quintin Gutierrez.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Dávila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Dávila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XIV.

Resolution.

Whereas there have been held recently in the island of Cuba elections at which were chosen Presidential and senatorial electors, members of the House of Representatives, governors of the respective provinces, and members of the provincial councils, for the independent republican Government which soon is to be established in that island; and,

Whereas the Republics of America represented in this assembly entertain the most sincere sentiments of respect and good will for the new Republic about to enter into the family of nations of this hemisphere;

Therefore be it resolved, By the Second International American Conference, that the president of the conference convey to the future President of the new Republic its earnest well wishes for the happy discharge of his high office as well as its good wishes for the prosperity of the future Republic of Cuba.

XV.

Recommendation.

The Philadelphia Commercial Museum.

The undersigned, delegates of the Republics represented in the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

The Second International American Conference recommends to the Governments of the Republics therein represented the advisability of adopting measures looking to the speedy completion and renewal of the collections of their products exhibited in the Commercial Museum of Philadelphia, and the transmission to the said museum of the data, reports, and publications of a general character, tending to favor and increase mercantile traffic.

Made and signed in the City of Mexico, on the 29th day of the month of January, 1902, in three copies, in Spanish, English, and French, respectively, which shall be deposited in the Department of Foreign Relations of the Government of the United States of Mexico, in order that certified copies thereof be made, to transmit them through diplomatic channels to each one of the signatory States.

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chile,
(Signed) *Augusto Matte.*
(Signed) *Emilio Bello C.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XVI.

Resolution.

„The Second International American Conference appreciates fully the efforts of St. Louis and of its inhabitants, which are taking place with the aid of the United States, to prepare an International Exhibition which is to take place in 1903."

These resolutions shall be forwarded to the mayor of the city of St. Louis for his information.

XVII.

Resolution.

The Second American International Conference resolves that the president, director-general, His Excellency Mr. William I. Buchanan, and the other employees of the Pan-American Exhibition, and the inhabitants of the city of Buffalo, receive its congratulations for the great success of that memorable and great work which is to contribute, doubtless, to the improvement and fostering of the friendly relations between the different States of the New World and to the growth and better knowledge of its resources, products, and possibilities.

XVIII.

Resolution.

„The conference decides that the invitation of the International Association of Olympic Games be communicated to the different Governments of the American Republics."

XIX.

Resolution.

Considering that Gen. Don Rafael Reyes and his brothers, Enrique and Nestor have made, at their own expense, important explorations tending to demonstrate the practicability of steam navigation on the Putumayo River and other affluents of the Amazon,

That, in view of the data furnished by those explorations, the publication of an important work is being prepared relating to the geography of South America, and specially to its hydrographic basins,

The International Conference resolves:

First. To give a vote of thanks to General Reyes for his explorations;

Second. To recommend to the Governments interested to protect and to make known in every possible manner the aforesaid geographical publication.

Additional resolution.

1. The delegates who accept this proposal shall dedicate to the explorers Nestor and Enrique Reyes a memorial tablet, which is to be laid on their grave, with the following inscription:

„The Delegates to the Second American Conference, assembled in Mexico in 1901—1902, to Nestor and Enrique Reyes, who died serving the civilization of America."

2. That the Government of Colombia deign to accept the request to lay said tablet.

XX.

Resolution.

„The Second Pan-American Conference duly appreciates Mr. Santos Dumont's efforts and those of all the other scientific men who persist in the discovery of the solution of the problem of aerial navigation."

XXI.

Motion offered by the Mexican delegation and adopted by the conference.

The delegation of Mexico has the honor of proposing to the conference that it offer a testimonial of its esteem to the eminent Argentine writer, Mr. Carlos Calvo.

This motion is in harmony with the purposes of the congress, and is a significant proof of the spirit which unites the countries represented therein; more than a glory for the Argentine Republic, a glory for all America is this sage, who consecrated his strenuous, and fortunately long life, to repair an omission of the writers on international law „who," as he himself says, „left this vast American continent in the dark, although its power and influence are increasing from one day to another, and whose people in equality with those of Europe, are advancing on the road of civilization and enlightenment."

If to labors of such utility for our Republics—crowned in a masterly manner by his „Theoretical and Practical International Law"—he devoted all his energy, it is but just that we should offer the expression of our sympathy to a man, to whom may be applied the beautiful phrase of Lucan: „He did not consider himself born for himself alone, but for the entire world; he was the faithful guardian of justice and the observer of the laws of honor."

For these considerations we respectfully ask the conference to transmit to his excellency Mr. Carlos Calvo the expressions of the esteem which it cherishes for that eminent American writer.

XXII.

Resolution.

Whereas, the undersigned, delegates to the Second International Conference of the American States, desire to place upon the records of the conference at this its last regular session, the gratefulness and appreciation felt by them for the uniform kindness, fairness, and courtesy, shown them during the sessions of the conference, by his excellency Señor Lic. D. Genaro Raigosa, president of the conference, and their thanks and sense of lasting gratitude they feel due to the distinguished secretary-general of the conference, Señor Lic. D. Joaquín D. Casasús, and to the secretaries of the conference Señor Lic. D. Miguel S. Macedo, Señor Lic. D. José F. Godoy, Señor Lic. D. Fernando Duret, and Señor D. Balbino Dávalos, and to the interpreters for the conference, Mr. J. Starr Hunt and Señor Lic. D. José Romero, and to all other employees thereof;

Therefore be it resolved, by the undersigned delegates to the Second International Conference of the American States, that their most sincere expressions of appreciation are hereby most respectfully extended to the president of the conference, his excellency Señor Lic. D. Genaro Raigosa, for the fairness, kindness, and uniform courtesy he has constantly extended to the delegates of the conference; and,

That their deepest expressions of gratitude and thanks are due, and are hereby expressed, to the distinguished secretary-general of the conference, Sr. Lic. D. Joaquin D. Casasús for his constant considerate courtesy to

the delegates in the conference; to the secretaries of the conference, Sr. Lic. D. Miguel S. Macedo, Sr. Lic. D. José F. Godoy, Sr. Lic. D. Fernando Duret, and Sr. D. Balbino Dávalos, for the great services they have so efficiently rendered, and to the interpreters of the conference, Mr. J. Starr Hunt and Sr. Lic. D. José Romero, and to all others connected with the work of the conference;

And, further, that this resolution shall be spread upon the minutes of the conference.

XXIII.

Resolution.

Whereas the delegates of the Republics represented in the Second International Conference of American States desire to leave among the permanent records of the conference an expression of the debt of gratitude they owe to the distinguished Chief Magistrate of the United States of Mexico, to his cabinet, to the honorable governor of the federal district, and to the authorities of the City of Mexico, for their munificent hospitality, that has been extended to each and all of the delegates accredited to the conference, upon all occasions, and also their deep appreciation of the numberless courtesies extended them by the distinguished members of the Mexican delegation in the conference, and the great satisfaction it has given them to have been able, through the hospitable invitation of the honorable governors of the States of Puebla, Vera Cruz, Jalisco, and Nuevo Leon, to have visited those progressive States:

Therefore, be it resolved by the undersigned delegates to the Second International Conference of the American States that their most grateful thanks, their most sincere expressions of appreciation, and their deepest acknowledgment of gratitude are hereby expressed and extended to His Excellency the President of the United States of Mexico, Señor Gen. Don Porfirio Diaz, to his cabinet, to the governor of the federal district, and to the ayuntamiento of the City of Mexico, for their manifold courtesies, their generous hospitality, and their great kindness, which have been continually extended to the delegates accredited to the conference, and to their families and secretaries, since their arrival to this progressive country; and that they request the Government of the United States of Mexico to please to convey to their excellencies the governors of the States of Puebla, Vera Cruz, Jalisco, and Nuevo Leon their deep sense of gratification for the delightful opportunity afforded them, through the hospitable invitation so generously extended them by their excellencies, to visit those rich and prosperous States of the Mexican Republic.

And, further, that this resolution shall be spread on the minutes of the conference.

Mexico, January 30, 1902.—William I. Buchanan, Charles M. Pepper, Volney W. Foster, delegates of the United States of America;

Francisco A. Reyes; J. B. Calvo; F. Davila; J. N. Léger; Francisco Orla; Augusto Matte; Juan Cuestas; J. Walker M.; L. F. Carbo; Lorenzo Anadón; A. Bermejo; Fernando E. Guachalla delegate for Bolivia; Cecilio Baez; Manuel Alvarez Calderón, delegate for Peru; Emilio Bello C.; Fed. Henríquez i Carvajal; J. Leonard; Baltasar Estupinian; A. Elmore.

XXIV.

Treaty for the extradition of criminals and for protection against anarchism.*)

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, the Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay.

Desiring that their respective countries should be represented at the second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

For the Argentine Republic.—His Excellency Dr. Antonio Bermejo, His Excellency D. Martín García Mérou, His Excellency Dr. Lorenzo Anadón.

For Bolivia.—His Excellency Fernando E. Guachalla.

For Colombia.—His Excellency Carlos Martínez Silva, His Excellency General Rafael Reyes.

For Costa Rica.—His Excellency Joaquin Bernardo Calvo.

For Chili.—His Excellency Alberto Blest Gana, His Excellency Emilio Bello Codecido, His Excellency Joaquin Walker Martinez, His Excellency Augusto Matte.

For the Dominican Republic.—His Excellency Federico Henriquez y Carvajal, His Excellency Luis Felipe Carbo, His Excellency Quintín Gutiérrez.

For Ecuador.—His Excellency Luis Felipe Carbo.

For El Salvador.—His Excellency Francisco A. Reyes, His Excellency Baltasar Estupinian.

For the United States of America.—His Excellency Henry G. Davis, His Excellency William I. Buchanan, His Excellency Charles M. Pepper, His Excellency Volney W. Foster, His Excellency John Barrett.

For Guatemala.— His Excellency Dr. Antonio Lazo Arriaga, Colonel Francisco Orla.

For Haiti.—His Excellency Dr. J. N. Léger.

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*) Ont ratifié le Guatémala (le 25 avril 1902); — le Salvador (le 19 mai 1902); — la Costa Rica (le 4 novembre 1903): — le Nicaragua (?).

For Honduras.—His Excellency José Leonard, His Excellency Fausto Davila.

For Mexico.—His Excellency Genaro Raigosa, His Excellency Joaquín D. Casasús, His Excellency José López-Portillo y Rojas, His Excellency Emilio Pardo, jr., His Excellency Pablo Macedo, His Excellency Alfredo Chavero, His Excellency Francisco L. de la Barra, His Excellency Manuel Sánchez Marmol, His Excellency Rosendo Pineda.

For Nicaragua.—His Excellency Luis F. Corea, His Excellency Fausto Dávila.

For Paraguay.—His Excellency Cecilio Baez.

For Peru.—His Excellency Isaac Alzamora, His Excellency Alberto Elmore, His Excellency Manuel Alvarez Calderón.

For Uruguay.—His Excellency Juan Cuestas.

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act „ad referendum,“ have agreed to enter into a Treaty for the extradition of criminals and for protection against anarchism, in the following terms.

Article 1st. The High Contracting Parties agree reciprocally to surrender persons accused or sentenced by the proper authorities whenever the following circumstances occur:

I. That the demanding State shall have jurisdiction to commit the delinquent who is the cause of the demand of extradition.

II. That the perpetration of a crime or offence of the common order which the laws of the demanding and requiring States punish with the penalty of not less than two years imprisonment, be duly invoked.

III. If by reason of the Federal form of Government of some of the High Contracting Parties, it shall not be possible to determine the punishment corresponding to a crime for which extradition has been demanded, the following list of crimes shall be taken as a basis for the demand:

1. Murder, comprehending the crimes known as parricide, assassination, poisoning and infanticide.
2. Rape.
3. Bigamy.
4. Arson.
5. Crimes committed at sea, to wit:

(*a*). Piracy, as commonly known and defined by the Law of Nations.

(*b*). Destruction or loss of a vessel, caused intentionally; or conspiracy and attempt to bring about such destruction or loss, when committed by any person or persons on board of said vessel on the high seas.

(*c*). Mutiny or conspiracy by two or more members of the crew, or other persons, on board of a vessel on the high seas, for the purpose of

rebelling against the authority of the captain or commander of such vessel, or by fraud, or by violence, taking possession of such vessel.

6. Burglary, defined to be the act of breaking and entering into the house of another in the night time, with intent to commit a felony therein.

7. The act of breaking into and entering public offices, or the offices of banks, banking houses, savings banks, trust companies, or insurance companies, with intent to commit theft therein, and also the thefts resulting from such acts.

8. Robbery, defined to be the felonious and forcible taking from the person of another of goods or money, by violence or by putting the person in fear.

9. Forgery or the utterance of forged papers.

10. The forgery, or falsification of the official acts of the Government or public authority, including courts of justice, or the utterance or fraudulent use of any of the same.

11. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, or other instruments of public credit; of counterfeit seals, bank notes, stamps, dies, and marks of State, or public administration, and the utterance, circulation, or fraudulent use of any of the above mentioned objects.

12. The introduction of instruments for the fabrication of counterfeit coin or bank notes or other paper current as money.

13. Embezzlement or malversation of public funds committed within the jurisdiction of either party by public officers or depositaries.

14. Embezzlement of funds of a bank of deposit, or savings bank, or trust company, chartered under the laws.

15. Embezzlement by any person or persons hired or salaried, to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed.

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons in order to exact money from them for their ransom or for any other unlawful end.

17. Mayhem and any other wilful mutilation causing disability or death.

18. The malicious and unlawful destruction or attempted destruction of railways, trains, bridges, vehicles, vessels and other means of travel, or of public edifices and private dwellings, when the act committed shall endanger human life.

19. Obtaining by threats or injury, or by false devices, money, valuables or other personal property, and the purchase of the same with the knowledge that they have been so obtained, when such crimes or offenses are punishable by imprisonment or other corporal punishment by the laws of both countries.

20. Larceny, defined to be the theft of effects, personal property, horses, cattle, live stock, or money, of the value of at least twenty-five dollars, or receiving stolen property, of that value knowing it to stolen.

21. Extradition shall also be granted for the attempt to commit any of the crimes and offences above enumerated, when such attempt is punishable with prison or other corporal penalty by the laws of both Contracting parties.

IV. That the demanding State present documents which, according to its laws, authorize the provisional arrest and the legal commitment of the offender.

V. That either the offence or penalty has not prescribed, in conformity with the respective laws of both countries.

VI. That the offender, if already sentenced, has not served his sentence.

Art. 2nd. Extradition shall not be granted for political offences or for deeds connected therewith. There shall not be considered as political offences acts which may be classified as pertaining to anarchism, by the legislation of both the demanding country and the country from whom the demand is made.

Art. 3rd. In no case can the nationality of the person accused prevent his or her surrender under the conditions stipulated by the present treaty, but no Government shall be bound to grant the extradition of its own citizens, reserving to itself the right to surrender them when in its judgment it is proper to do so.

Art. 4th. If the person whose extradition is demanded is subject to penal proceedings, or is detained for having committed an offence in the country where he has sought refuge, his delivery shall be delayed until the end of the proceedings, or until he has served his sentence.

Civil obligations contracted by the accused in the country of refuge shall not be an obstacle to his delivery.

Art. 5th. Extradition, when granted, does not authorize the trial and punishment, of the party surrendered, for a crime different from the one that may have served as ground for the corresponding demand; unless it has connection therewith and is founded upon the same proof as that of the demand.

This stipulation is not applicable to crimes or felonies committed after extradition.

Art. 6th. If another State or States, by virtue of stipulations in treaties, demand the surrender of the same individual by reason of different felonies, preference shall be given to the demand of the State in whose territory the greatest offence has been committed in the judgment of the State upon which the requisition has been made. If the felonies should be considered of the same degree, preference shall be given to the State that may have priority in the demand for extradition, and if all the demands bear the same date, the country upon which the demand is made shall determine the order of surrender.

Art. 7th. The requests for extradition shall be presented by the respective diplomatic or consular agents; and, in the absence of these,

directly by one Government to another; and they shall be accompanied by the following documents:

I. In regard to alleged delinquents, a legalized copy of the penal law applicable to the offence for which the demand is made, and of the commitment and other requisites referred to in Clause IV of Article 1st., shall be furnished.

II. With regard to those already sentenced, a legalized copy of the final sentence of condemnation.

All data and antecedents necessary to prove the identity of the person whose surrender is asked for, shall also accompany the demand.

Art. 8th. In cases of urgency, the provisional detention of the individual asked for may be granted on a telegraphic request, from the demanding Government to the Minister of Foreign Affairs, or to the proper authority of the country upon which the demand shall be made, and wherein a promise shall be made of sending the documents mentioned in the foregoing article; but the person detained shall be set free, if such documents are not presented within the term that may be designated by the nation on which the demand has been made, provided such term shall not exceed three months, to be counted from the date of the detention.

Art. 9th. The demand for extradition, in so far as the procedure is concerned, the determination of the genuineness of its origin, the admission and competency of the exception with which they can be opposed by the criminal or fugitive demanded, shall be submitted, whenever they do not conflict with the prescriptions of this Treaty, to the decision of the competent authorities of the country of refuge, which shall proceed in accordance with the legal provisions and practices established for such a case in said country. The fugitive criminal is guaranteed the right of habeas corpus, or the protection (recurso de amparo) of his individual guarantees.

Art. 10. All property which may be found in the possession of the accused, should he have obtained it through the perpetration of the act of which he is accused, which may serve as a proof of the crime for which his extradition is asked, shall be confiscated and delivered up with his person. Nevertheless, due recognition shall be given to the rights of third parties to the confiscated articles, provided they are not implicated in the accusation.

Art. 11. The transit through the territory of one of the Contracting States of any individual delivered by a third country to another State not belonging to the country of transit, shall be granted on the simple presentation, either of the original or of a legalized copy of the resolution granting the extradition by the Government of the country of refuge.

Art. 12. All expenses connected with extradition of the fugitive shall be for the account of the demanding State, with the exception of the compensation to the public functionaries who receive a fixed salary.

Art. 13. The extradition of any individual guilty of acts of anarchism can be demanded whenever the legislation of the demanding State and

of that on which the demand is made has established penalties for such acts. In such case, it shall be granted, although the individual whose extradition be demanded may be liable to imprisonment of less than two years.

Art. 14. The Contracting Governments agree to submit to arbitration all controversies which may arise out of the interpretation or carrying into effect of this Treaty, when all means for a direct settlement by friendly agreements shall have failed.

Each Contracting Party shall name an arbitrator, and the two shall name an umpire, in case of dispute. The Committee of Arbitrators shall adopt the rules for the arbitration proceedings in every case.

Art. 15. The present Treaty shall remain in force for five years from the day on which the last exchange of ratifications shall have been made and shall remain in force for another term of five years, if it should not have been denounced twelve months before the expiration of that period. In case any Government or Governments should denounce it, it shall remain in force among the other Contracting Parties. This Treaty shall be ratified, and the ratifications shall be exchanged in the city of Mexico, within one year from the time of its being signed.

Art. 16. If any of the High Contracting Parties should have concluded treaties of extradition among themselves, such treaties shall be amended only in the part modified or altered by the provisions of the present Treaty.

Transitory Article.

The representatives of Costa Rica, Ecuador, Honduras and Nicaragua sign this Treaty with the reserve that their respective Governments shall not deliver the culprit who deserves the death penalty, according to the legislation of the demanding countries, except under the promise that such penalty shall be commuted for the one next below in severity.

If the Governments of the above mentioned Delegations sustain the same reserve on ratifying the present Treaty, the latter will only bind them with those Governments which accept the conditions referred to.

In Testimony whereof the Plenipotentiaries and Delegates sign the present Treaty and set thereto the Seal of the Second International American Conference;

Made in the City of Mexico, on the twenty-eighth day of January nineteen hundred and two, in three copies written in Spanish, English and French respectively which shall be deposited at the Department of Foreign Relations of the Government of the Mexican United States, so that certified copies thereof may be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Dávila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Dávila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XXV.

Convention on the Practice of Learned Professions.*)

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, the Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to

*) Ont ratifié le Guatémala (le 25 avril 1902); — le Salvador (le 19 mai 1902); — la Costa Rica (le 5 août 1903); — le Pérou (le 10 octobre 1903); — la Bolivie (le 26 février 1904); — le Honduras (le 5 juillet 1904); — le Nicaragua (le 13 août 1904); — le Chili (le 17 juin 1909); — la République Dominicaine (le 24 décembre 1910).

approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

For the Argentine Republic.—His Excellency Antonio Bermejo, His Excellency Martín García Mérou, His Excellency Lorenzo Anadón.

For Bolivia.—His Excellency Fernando E. Guachalla.

For Colombia.—His Excellency Carlos Martinez Silva, His Excellency General Rafael Reyes.

For Costa Rica.—His Excellency Joaquin Bernardo Calvo.

For Chili.—His Excellency Alberto Blest Gana, His Excellency Emilio Bello Codecido, His Excellency Joaquín Walker Martínez, His Excellency Augusto Matte.

For the Dominican Republic.—His Excellency Federico Henriquez y Carvajal, His Excellency Luis Felipe Carbo, His Excellency Quintín Gutiérrez.

For Ecuador.—His Excellency Luis Felipe Carbo.

For El Salvador.—His Excellency Francisco A. Reyes, His Excellency Baltasar Estupinian.

For the United States of America.—His Excellency Henry G. Davis, His Excellency William I. Buchanan, His Excellency Charles M. Pepper, His Excellency Volney W. Foster, His Excellency John Barrett.

For Guatemala.—His Excellency Antonio Lazo Arriaga, His Excellency Colonel Francisco Orla.

For Haiti.—His Excellency J. N. Léger.

For Honduras.—His Excellency José Leonard, His Excellency Fausto Dávila.

For Mexico.—His Excellency Genaro Raigosa, His Excellency Joaquin D. Casasús, His Excellency José López-Portillo y Rojas, His Excellency Emilio Pardo, jr., His Excellency Pablo Macedo, His Excellency Alfredo Chavero, His Excellency Francisco L. de la Barra, His Excellency Manuel Sánchez Marmol, His Excellency Rosendo Pineda.

For Nicaragua.—His Excellency Luis F. Corea, His Excellency Fausto Dávila.

For Paraguay.—His Excellency Cecilio Baez.

For Peru.—His Excellency Isaac Alzamora, His Excellency Alberto Elmore, His Excellency Manuel Alvarez Calderon.

For Uruguay.—His Excellency Juan Cuestas;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act „ad referendum," have agreed to celebrate a Convention on the Practice of learned Professions, in the following terms:

Art. 1st. The citizens of any of the Republics signing the present Convention, may freely exercise the profession for which they may be

duly authorized by diploma or title granted by a competent national authority, of each one of the Signatory States, in any of the territories of the other nations, provided that such diploma or title complies with the regulations established in Articles 4th and 5th, and that the laws of the country, in which it is desired to practice the profession, do not require the practitioner to be a citizen.

The certificates of preparatory and higher studies, issued by any of the countries, parties to this Convention, in favor of citizens of one of their number, shall have in all the rest of the contracting countries the same effect as those authorized by the laws of the Republics of their origin, provided that they do not confer greater advantages than those recognized by the legislation of the country in which such certificates are to be used, and provided that there shall be reciprocity.

Art. 2nd. With respect to the professional titles issued by the colleges or universities of each State, Territory and of the District of Columbia, of the United States of America, in view of the fact that those institutions are not under the control of the Federal Government, nor in many cases under that of the State Governments, the signatory countries shall only recognize the titles and diplomas issued by the colleges and universities of those States, whose legislation offers reciprocity, and which shall have been issued according to the conditions provided in Article 5th. of this Convention.

Art. 3rd. Each one of the Contracting Parties reserves to itself, however, the right to require of the citizens of another country, who may present diplomas or titles of physician or of any other profession related to surgery or medicine, including that of pharmacy, that they submit themselves to a previous general examination in the branch of the profession which the respective titles or diplomas may authorize to be practiced, in such a manner as may be determined by each Government.

Art. 4th. Each one of the High Contracting Parties shall give official notice to the others which are the universities or institutions of learning in the Signatory Countries whose titles or diplomas are accepted as valid by the others for the practice of the professions which form the subject of this Convention.

As regards the observance of the foregoing provision by the United States of America, the Department of State of that country shall acquaint the other Signatory Republics with the legislative acts of the respective States of the United States relating to the recognition of the titles or diplomas of the said Signatory Republics and it shall convey, to the various States of the United States whose legislation admits of reciprocity, the information which it may receive, making known the titles and diplomas of the respective institutions of learning or Universities of the other Republics which the latter may recommend as valid.

The other High Contracting Parties shall give due recognition to the titles and diplomas of the Universities of the States, Territories and District of Columbia of the United States, which each one of the said High Contracting Parties may select.

Notwithstanding this provision, the educational institutions of the United States, which may not be recognized by the other Signatory Republics and which may consider themselves sufficiently entitled to it, may solicit the recognition of their professional diplomas by the respective Governments, by means of a petition to be accompanied with the corresponding proofs, which shall be passed upon in the manner which each Government may deem proper.

Art. 5th. The diploma, title or certificate of preparatory or higher studies, duly authenticated, and the certification of identification of the person, given by the respective diplomatic or consular agent accredited to the country which has issued any of these documents, shall be sufficient to meet the requirements contemplated by this Convention, after they have been registered in the Department of Foreign Relations of the country in which it is desired to practice the profession, which Department shall inform the proper authorities of the country in which the respective title may have been issued, that these requisites have been complied with.

Art. 6th. The present Convention does not modify in any manner the Treaties which the High Contracting Parties have now in force and which may offer greater privileges.

Art. 7th. The present Convention shall remain in force indefinitely, but any of the High Contracting Parties may abrogate it, in so far as such country is concerned, one year after having formally denounced it.

There shall not be indispensable for the enforcement of this Convention its simultaneous ratification by all the Signatory Nations. The country approving it, shall communicate such approval to the other States, through diplomatic channels, and such proceedings shall answer the purpose of an exchange of ratifications.

In Testimony whereof the Plenipotentiaries and Delegates sign the present Convention and set thereto the Seal of the Second International American Conference.

Made in the City of Mexico, on the twenty-seventh day of January nineteen hundred and two, in three copies written in Spanish, English and French respectively, which shall be deposited at the Department of Foreign Relations of the Government of the Mexican United States, so that certified copies thereof may be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
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For Haiti,
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For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Dávila.*

For Mexico,
(Signed) *G. Raigosa.*
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(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Dávila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel. Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XXVI.

Convention for the formation of Codes on Public and Private International Law.*)

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, the Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

*) Ont ratifié le Guatémala (le 25 avril 1902); — le Salvador (le 19 mai 1902); — la Bolivie (le 12 mars 1904).

For the Argentine Republic.—Their Excellencies Dr. Antonio Bermejo, Martin Garcia Mérou, Dr. Lorenzo Anadon.

For Bolivia.—His Excellency Fernando E. Guachalla.

For Colombia.—Their Excellencies Carlos Martinez Silva, General Rafael Reyes.

For Costa Rica.—His Excellency Joaquin Bernardo Calvo.

For Chili.—Their Excellencies Alberto Blest Gana, Emilio Bello Codecido, Joaquin Walker Martínez, Augusto Matte.

For the Dominican Republic.—Their Excellencies Federico Henriquez i Carvajal, Luis Filipe Carbo, Quintin Gutierrez.

For Ecuador.—His Excellency Luis Felipe Carbo.

For El Salvador.—Their Excellencies Francisco A. Reyes, Baltasar Estupinian.

For the United States of America.—Their Excellencies Henry G. Davis, William I. Buchanan, Charles M. Pepper, Volney W. Foster, John Barrett.

For Guatemala.—Their Excellencies Dr. Antonio Lazo Arriaga, Colonel Francisco Orla.

For Haiti.—His Excellency Dr. J. N. Léger.

For Honduras.—Their Excellencies José Leonard, Fausto Davila.

For Mexico.—Their Excellencies Genaro Raigosa, Joaquín D. Casasús, José Lopez-Portillo y Rojas, Emilio Pardo, jr., Pablo Macedo, Alfredo Chavero, Francisco L. de la Barra, Manuel Sanchez Marmol, Rosendo Pineda.

For Nicaragua.—Their Excellencies Luis F. Corea, Fausto Davila.

For Paraguay.—His Excellency Cecilio Baez.

For Peru.—Their Excellencies Isaac Alzamora, Alberto Elmore, Manuel Alvarez Calderón.

For Uruguay.—His Excellency Juan Cuestas;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act „ad referendum," have agreed to a Convention for the formation of Codes on Public and Private International Law in the following terms:

Article 1st. The Secretary of State of the United States of America and the Ministers of the American Republics accredited in Washington shall appoint a Committee of five American and two European jurists, of acknowledged reputation, to be entrusted with the drafting, during the interval from the present to the next Conference, and in the shortest possible time, of a „Code of Public International Law" and another of „Private International Law" which will govern the relations between the American Nations.

Article 2nd. As soon as said Codes have been drafted, the Committee shall cause them to be printed and submit them to the consideration

of the respective Governments of the American Nations, in order that they may make such suggestions as they may deem advisable.

Article 3rd. After said suggestions have been systematically classified, and the Codes have been revised in conformity with them by the Committee which drafted them, they shall be submitted again to the Governments of the American Republics to be adopted by those who desire it, either in the next American International Conference or by means of Treaties negotiated directly.

Article 4th. The Committee in charge of the drafting of the Codes shall conduct its work at such European or American capital as the Diplomatic Corps authorized to appoint it may designate, in conformity with Article 1st.

Such expense as may be incurred by this Convention shall be defrayed by the Signatory Governments in the same form and proportion as those in force with regard to the Bureau of American Republics.

Article 5th. The Governments that may desire to ratify the present Convention may communicate it to the Secretary of State of the United States of America, within one year counted from the closing of this Conference.

In Testimony whereof the Plenipotentiaries and Delegates sign the present Convention and set thereto the Seal of the Second International American Conference;

Made in the City of Mexico on the twenty-seventh day of January nineteen hundred and two, in three copies written in Spanish, English and French respectively which shall be deposited at the Department of Foreign Relations of the Government of the Mexican United States, so that certified copies thereof may be made, in the order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
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For the United States of America,
(Signed) *W. I. Buchanan.*
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For Guatemala,
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For Nicaragua,
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For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XXVII.

Convention on Literary and Artistic Copyrights.*)

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, the Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the Mexican United States, Nicaragua, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

For the Argentine Republic.—His Excellency Antonio Bermejo, His Excellency Martin Garcia Mérou, His Excellency Lorenzo Anadon.

For Bolivia.—His Excellency Fernando E. Guachalla.

For Colombia.—His Excellency Carlos Martinez Silva, His Excellency General Rafael Reyes.

For Costa Rica.—His Excellency Joaquin Bernardo Calvo.

For Chili.—His Excellency Alberto Blest Gana, His Excellency Emilio Bello Codecido, His Excellency Joaquin Walker Martinez, His Excellency Augusto Matte.

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*) Ont ratifié le Guatémala (le 25 avril 1902); — le Salvador (le 19 mai 1902); — la Costa Rica (le 28 juillet 1903); — le Honduras (le 4 juillet 1904); — le Nicaragua (le 13 août 1904); — la République Dominicaine (le 24 avril 1907); — les Etats-Unis d'Amérique (le 31 mars 1908, — v. Treaty Series No. 491).

For the Dominican Republic.—His Excellency Federico Henriquez i Carvajal, His Excellency Luis Felipe Carbo, His Excellency Quintin Gutierrez.

For Ecuador.—His Excellency Luis Felipe Carbo.

For El Salvador.—His Excellency Francisco A. Reyes, His Excellency Baltasar Estupinian.

For the United States of America.—His Excellency Henry G. Davis, His Excellency William I. Buchanan, His Excellency Charles M. Pepper, His Excellency Volney W. Foster, His Excellency John Barrett.

For Guatemala.—His Excellency Antonio Lazo Arriaga, His Excellency Colonel Francisco Orla.

For Haiti.—His Excellency J. N. Léger.

For Honduras.—His Excellency José Leonard, His Excellency Fausto Dávila.

For Mexico.—His Excellency Genaro Raigosa, His Excellency Joaquín D. Casasús, His Excellency José López-Portillo y Rojas, His Excellency Emilio Pardo, Jr., His Excellency Pablo Macedo, His Excellency Alfredo Chavero, His Excellency Francisco L. de la Barra, His Excellency Manuel Sánchez Marmol, His Excellency Rosendo Pineda.

For Nicaragua.—His Excellency Luis F. Corea, His Excellency Fausto Dávila.

For Paraguay.—His Excellency Cecilio Baez.

For Peru.—His Excellency Isaac Alzamora, His Excellency Alberto Elmore, His Excellency Manuel Alvarez Calderon.

For Uruguay.—His Excellency Juan Cuestas;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act ,,ad referendum," have agreed to celebrate a convention on literary and artistic copyrights, in the following terms:

Art. 1st. The signatory States constitute themselves into a Union for the purpose of recognizing and protecting the rights of literary and artistic property, in conformity with the stipulations of the present Convention.

Art. 2nd. Under the term „Literary and Artistic works," are comprised books, manuscripts, pamphlets of all kinds, no matter on what subject they may treat of and what may be the number of their pages; dramatic or melodramatic works; choral music and musical compositions, with or without words, designs, drawings, paintings, sculpture, engravings, photographic works; astronomical and geographical globes; plans, sketches and plastic works relating to geography or geology, topography or architecture, or any other science; and finally, every production in the literary and

artistic field, which may be published by any method of impression or reproduction.

Art. 3rd. The copyright to literary or artistic work, consists in the exclusive right to dispose of the same, to publish, sell and translate the same, or to authorize its translation, and to reproduce the same in any manner, either entirely or partially.

The authors belonging to one of the signatory countries, or their assigns, shall enjoy in the other signatory countries, and for the time stipulated in art. 5th., the exclusive right to translate their works, or to authorize their translation.

Art. 4th. In order to obtain the recognition of the copyright of a work, it is indispensable that the author or his assigns, or legitimate representative, shall address a petition to the official Department, which each government may designate, claiming the recognition of such right, which petition must be accompanied by two copies of his work, said copies to remain in the proper Department.

If the author, or his assigns, should desire that his copyright be recognized in any other of the signatory countries, he shall attach to his petition a number of copies of his work, equal to that of the countries he may therein designate. The said Department shall distribute the copies mentioned among those countries, accompanied by a copy of the respective certificate, in order that the copyright of the author may be recognized by them.

Any omissions in which the said Department may incur in this respect, shall not give the author, or his assigns, any rights to present claims against the State.

Art. 5th. The authors who belong to one of the signatory countries, or their assigns, shall enjoy in the other countries the rights which their respective laws at present grant, or in the future may grant, to their own citizens, but such right shall not exceed the term of protection granted in the country of its origin.

For the works composed of several volumes, which are not published at the same time, as well as for bulletins or instalments of publications of literary or scientific societies, or of private parties, the term of property shall commence to be counted from the date of the publication of each volume, bulletin, or instalment.

Art. 6th. The country in which a work is first published, shall be considered as the country of its origin, or, if such publication takes place simultaneously in several of the signatory countries, the one whose laws establish the shortest period of protection shall be considered as the country of its origin.

Art. 7th. Lawful translations shall be protected in the same manner as original works. The translators of works, in regard to which there exists no guaranteed right of property, or the right of which may have become extinguished, may secure the right of property for their trans-

lations, as established in article 3rd, but they shall not prevent the publication of other translations of the same work.

Art. 8th. Newspaper articles may be reproduced, but the publication from which they are taken must be mentioned, and the name of the author given, if it should appear in the same.

Art. 9th. Copyright shall be recognized in favor of the persons, whose names, or acknowledged pseudonyms, are stated in the respective literary or artistic work, or in the petition to which Article 4th. of this Convention refers, excepting case of proof to the contrary.

Art. 10th. Addresses delivered or read in deliberative assemblies, before the Courts of Justice and in public meetings, may be published in the newspaper press without any special authorization.

Art. 11th. The reproduction in publications devoted to public instruction or chrestomathy, of fragments of literary or artistic works, confers no right of property, and may therefore be freely made in all the signatory countries.

Art. 12th. All unauthorized indirect use of a literary or artistic work, which does not present the character of an original work, shall be considered as an unlawful reproduction.

It shall be considered in the same manner unlawful to reproduce, in any form, an entire work, or the greater part of the same, accompanied by notes or commentaries, under the pretext of literary criticism, or of enlargement or complement of an original work.

Art. 13th. All fraudulent works shall be liable to sequestration in the signatory countries in which the original work may have the right of legal protection, without prejudice to the indemnities or punishments, to which the falsifiers may be liable according to the laws of the country, in which the fraud has been committed.

Art. 14th. Each one of the Governments of the signatory countries shall remain at liberty to permit, exercise vigilance over, or prohibit, the circulation, representation and exposition of any work or production, in respect to which the competent authorities shall have power to exercise such right.

Art. 15th. The present Convention shall take effect between the signatory States that ratify it, three months from the day they communicate their ratification to the Mexican Government, and shall remain in force among all of them until one year from the date it is denounced by any of said States. The notification of such denouncement shall be addressed to the Mexican Government and shall only have effect in so far as regards the country which has given it.

Art. 16th. The Governments of the signatory States, when approving the present Convention, shall declare whether they accept the adherence to the same by the nations who have had no representation in the Second International American Conference.

In testimony whereof the Plenipotentiaries and Delegates sign the present Convention and set thereto the Seal of the Second International American Conference.

Made in the City of Mexico, on the twenty-seventh day of January nineteen hundred and two, in three copies written in Spanish, English and French respectively, which shall be deposited at the Department of Foreign Relations of the Government of the Mexican United States, so that certified copies thereof may be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
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For Bolivia,
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For Nicaragua,
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For Paraguay,
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For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XXVIII.

Convention relative to the Exchange of Official, Scientific, Literary and Industrial Publications.*)

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, the Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

For the Argentine Republic.—His Excellency Antonio Bermejo, His Excellency Martin Garcia Mérou, His Excellency Lorenzo Anadon.

For Bolivia.—His Excellency Fernando E. Guachalla.

For Colombia.—His Excellency Carlos Martinez Silva, His Excellency General Rafael Reyes.

For Costa Rica.—His Excellency Joaquin Bernardo Calvo.

For Chili.—His Excellency Alberto Blest Gana, His Excellency Emilio Bello Codecido, His Excellency Joaquin Walker Martinez, His Excellency Augusto Matte.

For the Dominican Republic.—His Excellency Federico Henriquez y Carvajal, His Excellency Luis Felipe Carbo, His Excellency Quintín Gutierrez.

For Ecuador.—His Excellency Luis Felipe Carbo.

For El Salvador.—His Excellency Francisco A. Reyes, His Excellency Baltasar Estupinian.

For the United States of America.—His Excellency Henry G. Davis, His Excellency William I. Buchanan, His Excellency Charles M. Pepper, His Excellency Volney W. Foster, His Excellency John Barrett.

For Guatemala.—His Excellency Antonio Lazo Arriaga, His Excellency Colonel Francisco Orla.

For Haiti.—His Excellency J. N. Léger.

For Honduras.—His Excellency José Leonard, His Excellency Fausto Dávila.

For Mexico.—His Excellency Genaro Raigosa, His Excellency Joaquín D. Casasús, His Excellency José Lopez-Portillo y Rojas, His Excellency Emilio Pardo, Jr., His Excellency Pablo Macedo, His Excellency Alfredo Chavero, His Excellency Francisco L. de la Barra,

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*) Ont ratifié le Guatémala (le 25 avril 1902); — le Salvador (le 19 mai 1902); — les Etats-Unis d'Amérique (le 23 juin 1902); — la Costa Rica (le 28 juillet 1903); — le Nicaragua (le 20 juin 1904): — le Honduras (le 4 juillet 1904); — le Mexique (le 15 mai 1905); — la Colombie (le 28 août 1908). — A adhéré la Cuba (le 10 janvier 1906, — v. American Journal of International Law I, p. 155).

His Excellency Manuel Sánchez Marmol, His Excellency Rosendo Pineda.

For Nicaragua.—His Excellency Luis F. Corea, His Excellency Fausto Dávila.

For Paraguay.—His Excellency Cecilio Baez.

For Peru.—His Excellency Isaac Alzamora, His Excellency Alberto Elmore, His Excellency Manuel Alvarez Calderon.

For Uruguay.—His Excellency Juan Cuestas;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act „ad referendum," have agreed: to enter into a Convention relative to the exchange of official, scientific, literary and industrial publications, in the following terms:

Art. 1st. The signatory Governments bind themselves to furnish one another, reciprocally, five copies of each one of the following official publications:

I. Parliamentary, administrative and statistical documents which may be published in each one of the contracting countries.

II. Works of all kinds, published or subsidized by the respective signatory Governments.

III. Geographical maps, general as well as special, topographic plans and other works of this kind.

Art. 2nd. The obligation stipulated in the foregoing article, shall exist even in the case that the works referred to should be printed outside of the territory of the country whose Government grants them subsidy or assistance.

Art. 3rd. Each one of the signatory Governments shall form as complete a collection as possible, of the books already published officially in its respective territory, specially of those relating to its history, statistics and geography, and shall forward such collections to the others at the time of making its first transmission.

Art. 4th. The Governments signing this Convention, whenever they shall receive the publications sent them by others, shall insert, in due time, a list of the same in the respective official journals, so that the public may be able to consult them in the office or library in which they are placed for inspection, stating at the same time the place and the printing office from which each work was issued, for the information of those that may desire to acquire said work.

Art. 5th. The Contracting Governments, in so far as the stipulations of the Universal Postal Union allow it, will declare free of postage, among the respective countries, all official correspondence and the publications under agreement of exchange referred to in this Convention, in conformity with the special arrangements which for the purpose shall be entered into among themselves.

Art. 6th. Each of the Contracting Countries shall send the printed matter to which this Convention refers, to the Legation or Consulate which it may have accredited to the Governments of the others, so that they may be delivered by such channels to the Department, office or library which each Government may designate to receive them. In the absence of indirect agents, the transmission shall be made from one Government to the other.

Art. 7th. For the operation of this Convention it is not indispensable that its ratification shall be made simultaneously by the signatory nations. The State approving it shall make known that fact to the others through a diplomatic agency, or directly, and such proceeding shall be considered of equal force as an exchange of copies.

Art. 8th. This Convention shall take effect for an indefinite period, from the day on which its ratification shall have taken place, in the manner expressed in the foregoing article, and the nation desiring to denounce it, shall give notice of its intention to the others; and its obligations under it shall cease only one year from the date of giving such notice.

In Testimony whereof the Plenipotentiaries and Delegates sign the present Convention and set thereto the Seal of the Second International American Conference.

Made in the City of Mexico, this twenty-seventh day of January nineteen hundred and two, in three copies written in Spanish, English and French respectively, which shall be deposited at the Department of Foreign Relations of the Government of the Mexican United States, so that certified copies thereof may be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Juestas.*

XXIX.

Treaty on Patents of Invention, Industrial Drawings and Models and Trade-marks.*)

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, the Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto, duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

For the Argentine Republic.—His Excellency Antonio Bermejo, His Excellency Martín García Mérou, His Excellency Lorenzo Anadón.

For Bolivia.—His Excellency Fernando E. Guachalla.

For Colombia.—His Excellency Carlos Martinez Silva, His Excellency General Rafael Reyes.

For Costa Rica.—His Excellency Joaquin Bernardo Calvo.

For Chili.—His Excellency Alberto Blest Gana, His Excellency Emilio Bello Codecido, His Excellency Joaquín Walker Martínez, His Excellency Augusto Matte.

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*) Ont ratifié le Guatémala (le 25 avril 1902); — le Salvador (le 19 mai 1902); — la Costa Rica (le 4 août 1903); — le Nicaragua (le 20 juin 1904); — le Honduras (le 15 juillet 1904); — les Etats-Unis d'Amérique (?). — A adhéré la Cuba (le 10 janvier 1906).

For the Dominican Republic.—His Excellency Federico Henriquez y Carvajal, His Excellency Luis Felipe Carbo, His Excellency Quintín Gutiérrez.

For Ecuador.—His Excellency Luis Felipe Carbo.

For El Salvador.—His Excellency Francisco A. Reyes, His Excellency Baltasar Estupinian.

For the United States of America.—His Excellency Henry G. Davis, His Excellency William I. Buchanan, His Excellency Charles M. Pepper, His Excellency Volney W. Foster, His Excellency John Barrett.

For Guatemala.—His Excellency Antonio Lazo Arriaga, His Excellency Colonel Francisco Orla.

For Haiti.—His Excellency J. N. Léger.

For Honduras.—His Excellency José Leonard, His Excellency Fausto Dávila.

For Mexico.—His Excellency Genaro Raigosa, His Excellency Joaquin D. Casasús, His Excellency José López-Portillo y Rojas, His Excellency Emilio Pardo jr., His Excellency Pablo Macedo, His Excellency Alfredo Chavero, His Excellency Francisco L. de la Barra, His Excellency Manuel Sánchez Marmol, His Excellency Rosendo Pineda.

For Nicaragua.—His Excellency Luis F. Corea, His Excellency Fausto Dávila.

For Paraguay.—His Excellency Cecilio Baez.

For Peru.—His Excellency Isaac Alzamora, His Excellency Alberto Elmore, His Excellency Manuel Alvarez Calderon.

For Uruguay.—His Excellency Juan Cuestas;

Who after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act „ad referendum,“ have agreed to enter into a Treaty on Patents of Invention, Industrial Drawings and Models, and Trade-marks, in the following terms:

Art. 1st. The citizens of each of the signatory States shall enjoy in other nations the same advantages granted by them to their own citizens in regard to the Trade-marks of commerce, or of manufacture, to the Models and industrial Drawings, and to Patents of invention.

Consequently, they shall have the right to the same protection and to identical remedies against any attack upon their rights.

Art. 2nd. For the purpose of this Treaty, foreigners domiciled in any of the signatory countries, or who may have in them an industrial or commercial establishment, shall be considered the same as citizens.

Art. 3rd. Patents of invention and those of industrial drawings and models, as well as of Trade-marks of commerce or manufacture, granted in the country of their origin, may be imported to the other signatory

States, for registration and publication, as may be required by the laws of the respective countries, and they shall be protected in the same manner as those granted in the State itself. This provision does not remove the obligation imposed by national laws requiring the privileged articles to be manufactured in the country enacting such laws.

Art. 4th. The Consular Agents of the Nation, to which belong or wherein reside the owners of patents, drawings, models, or Trade-marks, shall be considered as the legal representatives of said owners, for the purpose of complying with the formalities and conditions established, in order to present the application and secure the filing of said patents, drawings, models or Trade-marks, in the country wherein it is intended to use them.

Art. 5th. The country in which the grantee has his principal establishment or domicile, shall be considered as the country of origin.

In case that he should not have any such establishment in any of the signatory countries, that State of the Signatory Nations of which the claimant is a citizen, shall be considered as the country of origin.

Art. 6th. For the purpose of preserving the right of priority of Patents of Invention, Models or Designs and of imported Trade-marks, a term of one year is granted as to the former, and of six months as to the latter, to be counted from the date of their having been originally issued, for the presentation of the application of the same to the respective authority of the country, into which the patent right is to be imported.

Art. 7th. All questions which may arise regarding the priority of an invention and regarding the adoption of a Trade-mark, shall be decided with due regard to the date of the application for the respective Patent or Trade-mark, in the countries in which they have been granted.

Art. 8th. The following shall be considered as inventions: any new method of manufacturing industrial products; any mechanical or manual apparatus which may be used for the manufacture of said products; the discovery of any new industrial product; and the application of improved methods, for the purpose of producing results superior to those already known. The drawings and models of manufacture are subject to the rules of inventions and discoveries, in all that does not apply specially to the latter.

The signs, emblems or exterior names, that merchants or manufacturers may adopt or apply to their goods or products, in order to distinguish them from those of other manufacturers or merchants, who deal in articles of the same kind, shall be considered as Trade-marks of commerce or manufacture.

Art. 9th. No Patent of invention can be granted with respect to the following:

I. Inventions and discoveries, which may have been published in any country, whether it be a party to this Treaty or not.

II. Those that are contrary to morals, or to the laws of the country, in which the Patents of inventions are to be granted or to be recognized.

Art. 10th. Trade-marks of commerce or manufactures which are in the class provided for in paragraph II of the foregoing article, are likewise debarred from being granted or recognized.

Art. 11th. The ownership of a Patent of invention or of a Trade-mark of commerce or manufacture, covers the right to enjoy the products of the invention, or the use of the Trade-mark, and the right to assign them to others.

Art. 12th. The number of years of the patent right shall be that which the laws of the country, in which it is desired to make them effective, may establish. Such term may be limited to that established by the laws of the country in which the Patent of invention was originally granted, if the latter should be shorter.

Art. 13th. The civil and criminal responsibilities, which those who injure the rights of inventors, incur, shall be prosecuted and punished in accordance with the laws of the country, in which the injury has been committed.

The falsification, adulteration, or unauthorized use of Trade-marks of commerce and manufacture, shall likewise be prosecuted in accordance with the laws of the State, in whose territory the infringement has been committed.

Art. 14th. The declaration of nullity of a Patent or Trade-mark made in the country of its origin, shall be communicated in an authentic form to the other Signatory countries, so that they may decide in an administrative manner regarding the recognition, which may be solicited for the respective Patent or Trade-mark granted in the foreign country, and as to what effect such declaration is to produce with regard to the Patents or Trade-marks previously imported into said countries.

Art. 15th. The Treaties on Patents of Invention and Trade-marks of commerce and manufacture, previously concluded by and between the countries subscribing the present Treaty, shall be substituted by the present Treaty from the time of its being duly perfected, as far as the relations between the signatory countries are concerned.

Art. 16th. The communications, which the Governments who may ratify the present Treaty shall address to the Government of Mexico, for the purpose of making them known to the remaining contracting countries, shall be considered equal to the customary exchange of ratifications. The Government of Mexico shall likewise communicate to them its ratification of this Treaty, if it should resolve to ratify the same.

Art. 17th. The exchange of copies in the form of the foregoing article having been made by two or more countries, this Treaty shall take effect thenceforward for an indefinite time.

Art. 18th. In case any one of the Signatory Powers should desire to withdraw from this Treaty, it shall make its abrogation known in the manner prescribed in article 16th, and the effect of this Treaty, as far as

the respective nation is concerned, shall cease one year from the date of the receipt of the respective communication.

Art. 19th. The countries of America, that may not have signed this Treaty originally, may adhere to the same in the manner prescribed by art. 16th.

In Testimony whereof the Plenipotentiaries and Delegates sign the present Treaty and affix thereto the seal of the Second International American Conference.

Made in the City of Mexico this twenty-seventh day of January nineteen hundred and two, in three copies written in Spanish, English and French respectively, which shall be deposited at the Department of Foreign Relations of the Government of the Mexican United States, so that certified copies thereof may be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XXX.

Convention Relative to the Rights of Aliens.*)

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, the Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

For the Argentine Republic.—His Excellency Dr. Antonio Bermejo, His Excellency Martin García Mérou, His Excellency Dr. Lorenzo Anadon.

For Bolivia.—His Excellency Fernando E. Guachalla.

For Colombia.—His Excellency Carlos Martinez Silva, His Excellency General Rafael Reyes.

For Costa Rica.—His Excellency Joaquin Bernardo Calvo.

For Chili.—His Excellency Alberto Blest Gana, His Excellency Emilio Bello Codecido, His Excellency Joaquin Walker Martinez, His Excellency Augusto Matte.

For the Dominican Republic.—Federico Henriquez y Carvajal, His Excellency Luis Felipe Carbo, His Excellency Quintin Gutierrez.

For Ecuador.—His Excellency Luis Felipe Carbo.

For El Salvador.—His Excellency Francisco A. Reyes, His Excellency Baltasar Estupinian.

For the United States of America.—His Excellency Henry G. Davis, His Excellency William I. Buchanan, His Excellency Charles M. Pepper, His Excellency Volney W. Foster, His Excellency John Barrett.

For Guatemala.—His Excellency Dr. Antonio Lazo Arriago, His Excellency Colonel Francisco Orla.

For Haiti.—His Excellency Dr. J. N. Léger.

For Honduras.—His Excellency José Leonard, His Excellency Fausto Davila.

For Mexico.—His Excellency Genaro Raigosa, His Excellency Joaquin D. Casasús, His Excellency José Lopez-Portillo y Rojas, His Excellency Emilio Pardo, jr., His Excellency Pablo Macedo, His Excellency Alfredo Chavero, His Excellency Francisco L. de la Barra, His Excellency Manuel Sanchez Mármol, His Excellency Rosendo Pineda.

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*) Ont ratifié le Guatémala (le 25 avril 1902); — le Salvador (le 19 mai 1902); — la Bolivie (le 12 mars 1904); — le Honduras (le 5 juillet 1904); — la Colombie (le 29 août 1908); — le Nicaragua (?).

For Nicaragua.—His Excellency Luis F. Corea, His Excellency Fausto Dávila.

For Paraguay.—His Excellency Cecilio Baez.

For Peru.—His Excellency Isaac Alzamora, His Excellency Alberto Elmore, His Excellency Manuel Alvarez Calderon.

For Uruguay.—His Excellency Juan Cuestas;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act „ad referendum,“ have agreed to celebrate a Convention relative to the rights of Aliens in the following terms:

First: Aliens shall enjoy all civil rights pertaining to citizens, and make use thereof in the substance, form or procedure, and in the recourses which result therefrom, under exactly the same terms as the said citizens, except as may be otherwise provided by the Constitution of each country.

Second: The States do not owe to, nor recognize in, favor of foreigners, any obligations or responsibilities other than those established by their Constitutions and laws in favor of their citizens.

Therefore, the States are not responsible for damages sustained by aliens through acts of rebels or individuals, and in general, for damages originating from fortuitous causes of any kind, considering as such the acts of war whether civil or national; except in the case of failure on the part of the constituted authorities to comply with their duties.

Third: Whenever an alien shall have claims or complaints of a civil, criminal or administrative order against a State, or its citizens, he shall present his claims to a competent Court of the country, and such claims shall not be made, through diplomatic channels, except in the cases where there shall have been, on the part of the Court, a manifest denial of justice, or unusual delay, or evident violation of the principles of International Law.

In testimony whereof the Plenipotentiaries and Delegates sign the present Convention and set thereto the Seal of the Second International American Conference.

Made in the City of Mexico, on the twenty-ninth day of January nineteen hundred and two, in three copies written in Spanish, English and French, respectively, which shall be deposited at the Department of Foreign Relations of the Government of the United Mexican States, so that certified copies thereof may be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For Guatemala,
(Signed) *Francisco Orla.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Davila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Davila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

XXXI.

Resolution on future American International Conferences.

The undersigned, delegates of the Republics represented in the Second International American Conference, duly authorized by their Governments, have approved the following resolution:

The Second International American Conference resolves:

That the Third International American Conference shall meet within five years, in the place which the Secretary of State of the United States of America and the diplomatic representatives accredited by the American Republics in Washington may designate for the purpose and in accordance with what at the meeting of the said representatives may be resolved regarding the programme and other necessary details, for all of which they are hereby expressly authorized by the present resolution.

If due to any circumstances it were not possible for the third conference to assemble within five years the Secretary of State of the United States of America and the diplomatic representatives accredited in Washington may designate another date for its reunion.

It is also resolved to recommend to each one of the Governments that they present to the next conference a complete report of all that has been done by the respective countries in obedience to the recommendations adopted by the first and second conferences.

Made and signed in the City of Mexico, on the 29th day of the month of January, 1902, in three copies, in Spanish, English, and French, respectively, which shall be deposited in the Department of Foreign Relations of the Government of the United States of Mexico, in order that certified copies thereof be made to transmit them through diplomatic channels to each one of the signatory States.

For the Argentine Republic,
(Signed) *Antonio Bermejo.*
(Signed) *Lorenzo Anadon.*

For Bolivia,
(Signed) *Fernando E. Guachalla.*

For Colombia,
(Signed) *Rafael Reyes.*

For Costa Rica,
(Signed) *J. B. Calvo.*

For Chili,
(Signed) *Augusto Matte.*
(Signed) *Joaq. Walker M.*
(Signed) *Emilio Bello C.*

For the Dominican Republic,
(Signed) *Fed. Henriquez i Carvajal.*
(Signed) *L. F. Carbo.*
(Signed) *Quintín Gutiérrez.*

For Ecuador,
(Signed) *L. F. Carbo.*

For El Salvador,
(Signed) *Francisco A. Reyes.*
(Signed) *Baltasar Estupinian.*

For the United States of America,
(Signed) *W. I. Buchanan.*
(Signed) *Charles M. Pepper.*
(Signed) *Volney W. Foster.*

For Guatemala,
(Signed) *Francisco Orla.*

For Haiti,
(Signed) *J. N. Léger.*

For Honduras,
(Signed) *J. Leonard.*
(Signed) *F. Dávila.*

For Mexico,
(Signed) *G. Raigosa.*
(Signed) *Joaquin D. Casasús.*
(Signed) *E. Pardo, Jr.*
(Signed) *José Lopez-Portillo y Rojas.*
(Signed) *Pablo Macedo.*
(Signed) *F. L. de la Barra.*
(Signed) *Alfredo Chavero.*
(Signed) *M. Sanchez Marmol.*
(Signed) *Rosendo Pineda.*

For Nicaragua,
(Signed) *F. Dávila.*

For Paraguay,
(Signed) *Cecilio Baez.*

For Peru,
(Signed) *Manuel Alvarez Calderon.*
(Signed) *Alberto Elmore.*

For Uruguay,
(Signed) *Juan Cuestas.*

19.

ARGENTINE, BOLIVIE, BRÉSIL, CHILI, COLOMBIE, COSTA RICA, CUBA, RÉPUBLIQUE DOMINICAINE, EQUATEUR, ETATS-UNIS D'AMÉRIQUE, GUATÉMALA, HAÏTI, HONDURAS, MEXIQUE, NICARAGUA, PANAMA, PARAGUAY, PÉROU, SALVADOR, URUGUAY.

Conventions, Résolutions et Motions de la Troisième Conférence Internationale Américaine, réunie à Rio de Janeiro du 23 juillet au 26 août 1906.*)**)

Report of the Delegates of the United States to the Third International Conference of the American States. Washington 1907 (Government Printing Office).

I.

Convention.

Establishing the status of naturalized citizens who again take up their residence in the country of their origin.***)

Their Excellencies, the Presidents of Ecuador, Paraguay, Bolivia, Colombia, Honduras, Panama, Cuba, Peru, El Salvador, Costa Rica, the United States of Mexico, Guatemala, Uruguay, the Argentine Republic, Nicaragua, the United States of Brazil, the United States of America, and Chili;

Desiring that their respective countries should be represented at the Third International American Conference, sent, thereto, duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

Ecuador.—Dr. Emilio Arévalo; Olmedo Alfaro.

Paraguay.—Manuel Gondra; Arsenio López Decoud; Gualberto Cardús y Huerta.

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*) Les Actes de la Conférence ont été dressés en langues anglaise, espagnole et portugaise; seulement la Résolution concernant l'arbitrage général (V) a été rédigée au surplus en langue française. Nous ne reproduisons que les textes anglais.

**) Les indications des dates de la ratification ajoutées aux Conventions reproduites sont fondées sur une communication bienveillante du Bureau des Républiques Américaines.

***) Ont ratifié le Honduras (le 5 février 1907); — le Guatémala (le 20 avril 1907); — le Salvador (le 11 mai 1907); — les Etats-Unis d'Amérique (le 13 janvier 1908); — le Nicaragua (le 20 fevrier 1908); — la Colombie (le 29 août 1908); — la Costa Rica (le 26 octobre 1908); — le Panama (en 1908); — le Chili (le 28 juin 1909); — le Brésil (le 8 octobre 1909); — l'Equateur (au mois de novembre 1909).

Bolivia.—Dr. Alberto Gutiérrez; Dr. Carlos V. Romero.

Colombia.—Rafael Uribe; Dr. Guillermo Valencia.

Honduras.—Fausto Dávila.

Panama.—Dr. José Domingo de Obaldía.

Cuba.—Dr. Gonzalo de Quesada; Rafael Montoro; Dr. Antonio González Lanuza.

Peru.—Dr. Eugenio Larrabure y Unánue; Dr. Antonio Miró Quesada; Dr. Mariano Cornejo.

El Salvador.—Dr. Francisco A. Reyes.

Costa Rica.—Dr. Ascención Esquivel.

United States of Mexico.—Dr. Francisco León de La Barra; Ricardo Molina-Hübbe; Ricardo García Granados.

Guatemala.—Dr. Antonio Batres Jáuregui.

Uruguay.—Luis Melian Lafinur; Dr. Antonio María Rodríguez; Dr. Gonzalo Ramírez.

Argentine Republic.—Dr. J. V. González; Dr. José A. Terry; Dr. Eduardo L. Bidau.

Nicaragua.—Luis F. Corea.

United States of Brazil.—Dr. Joaquim Aurelio Nabuco de Araujo; Dr. Joaquim Francisco de Assis Brasil; Dr. Gastão de Cunha; Dr. Alfredo de Moraes Gomes Ferreira; Dr. João Pandiá Calogeras; Dr. Amaro Cavalcanti; Dr. Joaquim Xavier da Silveira; Dr. José P. da Graça Aranha; Antonio da Fontoura Xavier.

United States of America.—William I. Buchanan; Dr. L. S. Rowe; A. J. Montague; Tulio Larrinaga; Dr. Paul S. Reinsch; Van Leer Polk.

Chili.—Dr. Anselmo Hevia Riquelme; Joaquín Walker Martínez; Dr. Luis Antonio Vergara; Dr. Adolfo Guerrero.

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, have agreed to celebrate a convention establishing the status of naturalized citizens who again take up their residence in the country of their origin, in the following terms:

Art. I. If a citizen, a native of any of the countries signing the present Convention, and naturalized in another, shall again take up his residence, in his native country without the intention of returning to the country in which he has been naturalized, he will be considered as having reassumed his original citizenship, and as having renounced the citizenship acquired by the said naturalization.

Art. II. The intention not to return will be presumed to exist when the naturalized person shall have resided in his native country for more than two years. But this presumption may be destroyed by evidence to the contrary.

Art. III. This Convention will become effective in the countries that ratify it three months from the dates upon which said ratifications shall

be communicated to the Government of the United States of Brazil; and if it should be denounced by any one of them, it shall continue in effect for one year more, to count from the date of such denouncement.

Art. IV. The denouncement of this Convention by any one of the signatory States shall be made to the Government of the United States of Brazil and shall take effect only with regard to the country that may make it.

In testimony whereof the Plenipotentiaries and Delegates have signed the present Convention, and affixed the Seal of the Third International American Conference.

Made in the city of Rio de Janeiro the thirteenth of August, nineteen hundred and six, in English, Portuguese, and Spanish, and deposited with the Secretary of Foreign Affairs of the United States of Brazil, in order that certified copies thereof be made, and sent through diplomatic channels to the signatory States.

For Ecuador.
Emilio Arévalo.
Olmedo Alfaro.

For Paraguay.
Manoel Gondra.
Arsenio López Decoud.
Gualberto Cardús y Huerta.

For Bolivia.
Alberto Gutiérrez.
Carlos V. Romero.

For Colombia.
Rafael Uribe Uribe.
Guillermo Valencia.

For Honduras.
Fausto Dávila.

For Panama.
José Domingo de Obaldía.

For Cuba.
Gonzalo de Quesada.
Rafael Montoro.
Antonio González Lanuza.

For Peru.
Eugenio Larrabure y Unánue.
Antonio Miró Quesada.
Mariano Cornejo.

For El Salvador.
Francisco A. Reyes.

For Costa Rica.
Ascención Esquivel.

For the United States of Mexico.
Francisco León de La Barra.
Ricardo Molina-Hübbe.
Ricardo Garcia Granados.

For Guatemala.
Antonio Batres Jáuregui.

For Uruguay.
Luis Melian Lafinur.
Antonio María Rodríguez.
Gonzalo Ramírez.

For the Argentine Republic.
J. V. González.
José A. Terry.
Eduardo L. Bidau.

For Nicaragua.
Luis F. Corea.

For the United States of Brazil.
Joaquim Aurelio Nabuco de Araujo.
Joaquim Francisco de Assis Brasil.
Gastão da Cunha.
Alfredo de Moraes Gomes Ferreira.
João Pandiá Calogeras.
Amaro Cavalcanti.
Joaquim Xavier da Silveira.
José P. da Graça Aranha.
Antonio da Fontoura Xavier.

For the United States of America.
William I. Buchanan.
L. S. Rowe.
A. J. Montague.
Tulio Larrinaga.
Paul S. Reinsch.
Van Leer Polk.

For Chili.
Anselmo Hevia Riquelme.
Joaquín Walker-Martinez.
Luis Antonio Vergara.
Adolfo Guerrero.

II.

Convention.

Pecuniary Claims.*)

Their Excellencies, the Presidents of Ecuador, Paraguay, Bolivia, Colombia, Honduras, Panama, Cuba, the Dominican Republic, Peru, El Salvador, Costa Rica, the United States of Mexico, Guatemala, Uruguay, the Argentine Republic, Nicaragua, the United States of Brazil, the United States of America, and Chili;

Desiring that their respective countries should be represented at the Third International American Conference, sent thereto, duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

Ecuador.—Dr. Emilio Arévalo; Olmedo Alfaro.

Paraguay.—Manuel Gondra; Arsenio López Decoud; Gualberto Cardús y Huerta.

Bolivia.—Dr. Alberto Gutiérrez; Dr. Carlos V. Romero.

Colombia.—Rafael Uribe Uribe; Dr. Guillermo Valencia.

Honduras.—Fausto Dávila.

Panama.—Dr. José Domingo de Obaldía.

Cuba.—Dr. Gonzalo de Quesada; Rafael Montoro; Dr. Antonio González Lanuza.

Dominican Republic.—E. C. Joubert.

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*) Ont ratifié le Honduras (le 5 février 1907); — le Guatémala (le 20 avril 1907); — les Etats-Unis d'Amérique (le 2 mars 1907); — le Salvador (le 11 mai 1907); — le Mexique (le 18 novembre 1907); — le Nicaragua (le 20 février 1908); — la Cuba (le 17 mars 1908); — la Colombie (le 29 août 1908); — la Costa Rica (le 26 octobre 1908); — le Chili (le 29 juin 1909); — l'Equateur (au mois de novembre 1909); — le Panama (?).

Peru.—Dr. Eugenio Larrabure y Unánue; Dr. Antonio Miró Quesada; Dr. Mariano Cornejo.

El Salvador.—Dr. Francisco A. Reyes.

Costa Rica.—Dr. Ascensión Esquivel.

United States of Mexico.—Dr. Francisco León de La Barra; Ricardo Molina-Hübbe; Ricardo Garcia Granados.

Guatemala.—Dr. Antonio Batres Jáuregui.

Uruguay.—Luis Melian Lafinur; Dr. Antonio Maria Rodriguez; Dr. Gonzalo Ramirez.

Argentine Republic.—Dr. J. V. González; Dr. José A. Terry; Dr. Eduardo L. Bidau.

Nicaragua.—Luis F. Corea.

United States of Brazil.—Dr. Joaquim Aurelio Nabuco de Araujo; Dr. Joaquim Francisco de Assis Brasil; Dr. Gastão da Cunha; Dr. Alfredo de Moraes Gomes Ferreira; Dr. João Pandiá Calogeras; Dr. Amaro Cavalcanti; Dr. Joaquim Xavier da Silveira; Dr. José P. da Graça Aranha; Antonio da Fontoura Xavier.

United States of America.—William I. Buchanan; Dr. L. S. Rowe; A. J. Montague; Tulio Larrinaga; Dr. Paul S. Reinsch; Van Leer Polk.

Chili.—Dr. Anselmo Hevia Riquelme; Joaquin Walker-Martinez; Dr. Luis Antonio-Vergara; Dr. Adolfo Guerrero.

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, have agreed, to celebrate a convention extending the Treaty on Pecuniary Claims celebrated in Mexico on the thirtieth of January nineteen hundred and two,*) in the following terms:

The High Contracting Parties, animated by the desire to extend the term of duration of the Treaty on pecuniary claims, signed at Mexico, January thirtieth, nineteen hundred and two, and believing that, under present conditions, the reasons underlying the third article of said Treaty have disappeared, have agreed upon the following:

Sole article. The treaty on pecuniary claims, signed at Mexico, January thirtieth, nineteen hundred and two, shall continue in force, with the exception of the third article, which is hereby abolished, until the thirty-first day of December, nineteen hundred and twelve, both for the nations which have already ratified it, and for those which may hereafter ratify it.

In testimony whereof the Plenipotentiaries and Delegates have signed the present Convention, and affixed the Seal of the Third International American Conference.

Made in the city of Rio de Janeiro the thirteenth of August nineteen hundred and six, in English, Portuguese, and Spanish, and deposited with the Secretary of Foreign Affairs of the United States of Brazil, in order

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*) V. ci-dessus, p. 158.

that certified copies thereof be made, and sent through diplomatic channels to the signatory States.

For Ecuador.
Emilio Arévalo.
Olmedo Alfaro.

For Paraguay.
Manoel Gondra.
Arsenio López Decoud.
Gualberto Cardús y Huerta.

For Bolivia.
Alberto Gutiérrez.
Carlos V. Romero.

For Colombia.
Rafael Uribe Uribe.
Guillermo Valencia.

For Honduras.
Fausto Dávila.

For Panama.
José Domingo de Obaldia.

For Cuba.
Gonzalo de Quesada.
Rafael Montoro.
Antonio González Lanuza.

For the Dominican Republic.
Emilio C. Joubert.

For Peru.
Eugenio Larrabure y Unánue.
Antonio Miró Quesada.
Mariano Cornejo.

For El Salvador.
Francisco A. Reyes.

For Costa Rica.
Ascensión Esquivel.

For the United States of Mexico.
Francisco León de La Barra.
Ricardo Molina-Hübbe.
Ricardo Garcia Granados.

For Guatemala.
Antonio Batres Jáuregui.

For Uruguay.
Luis Melian Lafinur.
Antonio Maria Rodriguez.
Gonzalo Ramirez.

For the Argentine Republic.
J. V. González.
José A. Terry.
Eduardo L. Bidau.

For Nicaragua.
Luis F. Corea.

For the United States of Brazil.
Joaquim Aurelio Nabuco de Araujo.
Joaquim Francisco de Assis Brasil.
Gastáo da Cunha.
Alfredo de Moraes Gomes Ferreira.
João Pandiá Calogeras.
Amaro Cavalcanti.
Joaquim Xavier da Silveira.
José P. da Graça Aranha.
Antonio da Fontoura Xavier.

For the United States of America.
William I. Buchanan.
L. S. Rowe.
A. J. Montague.
Tulio Larrinaga.
Paul S. Reinsch.
Van Leer Polk.

For Chili.
Anselmo Hevia Riquelme.
Joaquin Walker Martinez.
Luis Antonio Vergara.
Adolfo Guerrero.

III.

Convention.

Patents of invention, drawings and industrial models, trade-marks, and literary and artistic property.*)

Their Excellencies, the Presidents of Ecuador, Paraguay, Bolivia, Colombia, Honduras, Panama, Cuba, the Dominican Republic, Peru, El Salvador, Costa Rica, the United States of Mexico, Guatemala, Uruguay, the Argentine Republic, Nicaragua, the United States of Brazil, the United States of America, and Chili;

Desiring that their respective countries should be represented at the Third International American Conference, sent thereto, duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

Ecuador.—Dr. Emilio Arévalo; Olmedo Alfaro.

Paraguay.—Manuel Gondra; Arsenio López Decoud; Gualberto Cardús y Huerta.

Bolivia.—Dr. Alberto Gutiérrez; Dr. Carlos V. Romero.

Colombia.—Rafael Uribe Uribe; Dr. Guillermo Valencia.

Honduras.—Fausto Dávila.

Panama.—Dr. José Domingo de Obaldia.

Cuba.—Dr. Gonzalo de Quesada; Rafael Montoro; Dr. Antonio González Lanuza.

Dominican Republic.—E. C. Joubert.

Peru.—Dr. Eugenio Larrabure y Unánue; Dr. Antonio Miró Quesada; Dr. Mariano Cornejo.

El Salvador.—Dr. Francisco A. Reyes.

Costa Rica.—Dr. Ascensión Esquivel.

United States of Mexico.—Dr. Francisco León de La Barra; Ricardo Molina-Hübbe; Ricardo Garcia Granados.

Guatemala.—Dr. Antonio Batres Jáuregui.

Uruguay.—Luis Melian Lafinur; Dr. Antonio Maria Rodriguez; Dr. Gonzalo Ramirez.

Argentine Republic.—Dr. J. V. González; Dr. José A. Terry; Dr. Eduardo L. Bidau.

Nicaragua.—Luis F. Corea.

United States of Brazil.—Dr. Joaquim Aurelio Nabuco de Araujo; Dr. Joaquim Francisco de Assis Brasil; Dr. Gastão da Cunha; Dr. Alfredo de Moraes Gomes Ferreira; Dr. João Pandiá Calo-

*) Ont ratifié le Honduras (le 5 février 1907); — le Guatémala (le 19 avril 1907); — le Salvador (le 11 mai 1907); — le Nicaragua (le 20 février 1908); — la Costa Rica (le 26 octobre 1908); — le Chili (le 2 juillet 1909); — l'Equateur (au mois de novembre 1909); — le Brésil (le 31 décembre 1910); — le Panama (?).

geras; Dr. Amaro Cavalcanti; Dr. Joaquim Xavier de Silveira; Dr. José P. da Graça Aranha; Antonio da Fontoura Xavier.

United States of America.—William I. Buchanan; Dr. L. S. Rowe; A. J. Montague; Tulio Larrinaga; Dr. Paul S. Reinsch; Van Leer Polk.

Chili.—Dr. Anselmo Hevia Riquelme; Joaquin Walker Martinez; Dr. Luis Antonio Vergara; Dr. Adolfo Guerrero;

Who, after having communicated with each other their respective full powers and found them to be in due and proper form, have agreed on the following:

Art. 1. The subscribing Nations adopt in regard to patents of invention, drawings and industrial models, trade-marks, and literary and artistic property, the treaties subscribed at the Second International Conference of American States held in Mexico, on the 27th of January, 1902,*) with such modifications as are expressed in the present Convention.

Art. 2. A union is constituted of the nations of America, which will be rendered effective by means of two Bureaus, which will be maintained, one in the City of Havana and the other in that of Rio de Janeiro, each working closely with the other, to be styled Bureaus of the International American Union for the Protection of Intellectual and Industrial Property, and will have for their object the centralization of the registration of literary and artistic works, patents, trade-marks, drawings, models, etc., which will be registered, in each one of the signatory Nations, according to the respective treaties and with a view to their validity and recognition by the others.

This international registration is entirely optional with persons interested, since they are free to apply, personally or through an attorney-in-fact, for registration in each one of the States in which they seek protection.

Art. III. The Bureau established in the city of Havana will have charge of the registrations from the United States of America, the United States of Mexico, Venezuela, Cuba, Haiti, San Domingo, San Salvador, Honduras, Nicaragua, Costa Rica, Guatemala, Panama and Colombia.

The Bureau established in the city of Rio de Janeiro will attend to the registrations coming from the Republics of the United States of Brazil, Uruguay, Argentine Republic, Paraguay, Bolivia, Chili, Peru and Ecuador.

Art. IV. For the purposes of the legal unification of the registration, the two International Bureaus, which are divided merely with a view to greater facility of communication, are considered as one, and to this end it is established that: (*a*) both shall have the same books and the same accounts kept under an identical system: (*b*) copies shall be transmitted monthly from one to the other, authenticated by the Governments in whose territories they have their seat, of all the registrations, com-

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*) V. ci-dessus, p. 198, 206.

munications and other documents affecting the recognition of the rights of proprietors or authors.

Art. V. Each one of the Governments adhering to the Union will send at the end of each month, to the proper Bureau, according to Art. III, authenticated copies of all registrations of trade-marks, patents, drawings, models, etc., and copies of the literary and artistic works, registered in them, as well as of all lapses, renunciations, transfers and other alterations occurring in proprietary rights, according to the respective treaties and laws, in order that they may be sent out or distributed and notice given of them as the case may be by the International Bureau to those Nations in direct correspondence therewith.

Art. VI. The registration or deposit of drawings, models, etc., made in the country of origin, according to the national law of the same and transmitted by the respective administration to the International Bureau, shall be by such Bureau laid before the other countries of the Union, by which it shall be given full faith and credit, except in the case provided for in art. IX of the Treaty on Patents, Trade-marks, etc., of Mexico, and in case the requirements essential to the recognition of International Property are lacking where literary or artistic works are involved according to the Treaty thereon subscribed in Mexico.

In order that the States forming the Union may accept or refuse the recognition of the rights granted in the country of origin, and for the further legal purposes of such recognition, such States shall be allowed a term of one year from the date of notification by the proper Office for the purpose of so doing.

In case patents, trade-marks, drawings, models, etc., or the right to literary or artistic works shall fail to obtain recognition on the part of any one of the offices of the States forming the Union, the International Bureau shall be made acquainted with the facts and reasons of the case in order that, in its turn these facts may be transmitted by it to the office of origin and to the interested party, for proper action according to local law.

Art. VII. Every registration or recognition of intellectual and industrial rights made in one of the countries of the Union, and communicated to the others according to the form prescribed in the preceding articles shall have the same effect that would be produced if said registration or recognition had taken place in all of them, and every nullification or lapse of rights, occurring in the country of origin, and communicated in the same form to the others, shall produce in them the same effect that it would produce in the former.

The period of International protection derived from the registration shall be that recognized by the laws of the country where the rights originated or have been recognized and if said laws do not provide for such matters, or do not specify a fixed period, the respective periods shall be: for patents, 15 years; for trade-marks or commercial designs, models and industrial drawings, 10 years; for literary and artistic works, 25 years, counting from the death of the author thereof; the two first

periods may be renewed at will by giving the same form as the case of the first registration.

Art. VIII. The International Bureaus for the protection of intellectual and industrial property shall be governed by identical regulations formed with the concurrence of the Governments of the Republics of Cuba and Brazil and approved by all the others belonging to the Union. Their budgets, after being sanctioned by the said Governments, shall be defrayed by all of the subscribing Governments in the same proportion established for the International Bureau of American Republics at Washington, and in this particular they shall be placed under the control of those Governments within whose territories they are established.

To the tax on rights which the country of their origin collects for registrations or deposit and other acts resulting from the recognition or guarantee of intellectual and industrial property, shall be added a fee of five dollars, American gold, which fee or the equivalent thereof in the currency of the country in which the payment is made, shall be distributed in equal parts among the Governments in whose territory the International Bureaus shall be established, the sole object of this being to contribute to the maintenance of the said Bureaus.

Art. IX. In addition to the functions prescribed in the preceding articles the International Bureaus shall have the following:

1st. To collect information of all kinds regarding the protection of intellectual and industrial property, and to publish and circulate the same among the countries of America at proper intervals;

2nd. To encourage the study of questions regarding the said subjects, to which end they may publish one or more official reviews containing all documents forwarded to them by the offices of the subscribing countries;

3rd. To lay before the Governments of the Union any difficulties or obstacles that may arise in the efficacious application of the present Convention, and indicate means to correct or remove such difficulties or obstacles;

4th. To help the Governments of the Union in the preparation of International Conferences for the study and progress of legislation and intellectual and industrial properties, for alterations which it may be proper to introduce in the regulations of the Union or in the treaties in force on the said subject, and in case such Conferences take place, the Directors of the Bureau, not appointed to represent any countries, shall have a right to attend the meetings and express their opinions at them, but not to vote;

5th. To present to the Governments of the country where they shall have their seats, a yearly report of their labors, which shall be communicated to all of the States of the Union;

6th. To establish relations for the exchange of publications information and data conducive to the progress of the institution, with similar Bureaus and Institutions, and with scientific, literary, artistic and industrial corporations or Europe and America.

7th. To cooperate as agent for each one of the Governments of the Union for the transaction of any business, the taking of any initiative or the execution of any act conducive to further the ends of the present Convention with the offices of the other Governments.

Art. X. The provisions contained in the Treaties of Mexico, of January 27th, 1902, on patents of invention, drawings and industrial models and commercial trade-marks, and on literary and artistic property, so far as regards the formalities of the registration or recognition of said rights in other countries than that of origin, shall be considered as replaced by the provisions of the present Convention, as soon as one of the International Bureaus shall have been established, and only with regard to those States which have concurred in its constitution; in all other cases, the said treaties shall remain in force and the present Convention shall be considered additional thereto.

Art. XI. The Governments of the Republics of Cuba and the United States of Brazil shall proceed with the organization of the International Bureaus, upon the ratification of this Convention by at least two-thirds of the nations belonging to each group mentioned in article III. The simultaneous establishment of both Bureaus shall not be necessary; one only may be established if there be the number of adherent Governments provided above, the Government in which the Bureau has its seat being charged with taking the proper steps to secure this result, availing itself of the powers contained in the eighth article.

In the event that one of the two offices referred to in this Convention shall have been established, the countries belonging to a group other than that to which the Bureau corresponds, shall have the right to join it, until the second Bureau shall be established. Upon the establishment of the second Bureau, the first Bureau shall transmit to the same all the data referred to in article XII.

Art. XII. As regards the adhesion of the American Nations to the present Convention, it will be communicated to the Government of the United States of Brazil, which will lay it before the others, these communications taking the place of an exchange of Notes.

The Government of Brazil will also notify the International Bureau of this adhesion, and this Bureau will forward to the newly adhering State a complete statement of all the marks, patents, models, drawings and literary and artistic works registered, which, at the time, shall be under International protection.

In testimony whereof the Plenipotentiaries and Delegates have signed the present Convention, and affixed the Seal of the Third International American Conference.

Made in the City of Rio de Janeiro twenty-third day of August, nineteen hundred and six, in English, Portugese, and Spanish, and deposited with the Secretary of Foreign Affairs of the United States of Brazil, in

order that certified copies thereof be made, and sent through diplomatic channels to the signatory States.

For Ecuador.
Emilio Arévalo.
Olmedo Alfaro.

For Paraguay.
Manoel Gondra.
Arsenio López Decoud.
Gualberto Cardús y Huerta.

For Bolivia.
Alberto Gutiérrez.
Carlos V. Romero.

For Colombia.
Rafael Uribe Uribe.
Guillermo Valencia.

For Honduras.
Fausto Dávila.

For Panama.
José Domingo de Obaldía.

For Cuba.
Gonzalo de Quesada.
Rafael Montoro.
Antonio González Lanuza.

For the Dominican Republic.
Emilio C. Joubert.

For Peru.
Eugenio Larrabure y Unánue.
Antonio Miró Quesada.
Mariano Cornejo.

For the United States of Brazil.
Joaquim Aurelio Nabuco de Araujo.
Joaquim Francisco de Assis Brasil.
Gastão da Cunha.
Alfredo de Moraes Gomes Ferreira.
João Pandiá Calogeras.
Amaro Cavalcanti.
Joaquim Xavier da Silveira.
José P. da Graça Aranha.
Antonio da Fontoura Xavier.

For El Salvador.
Francisco A. Reyes.

For Costa Rica.
Ascensión Esquivel.

For the United States of Mexico.
Francisco León de La Barra.
Ricardo Molina-Hübbe.
Ricardo Garcia Granados.

For Guatemala.
Antonio Batres Jáuregui.

For Uruguay.
Luis Melian Lafinur.
Antonio Maria Rodríguez.
Gonzala Ramírez.

For the Argentine Republic.
J. V. Gonzalez.
José A. Terry.
Eduardo L. Bidau.

For Nicaragua.
Luis F. Corea.

For the United States of America.
William I. Buchanan.
L. S. Rowe.
A. J. Montague.
Tulio Larrinaga.
Paul S. Reinsch.
Van Leer Polk.

For Chili.
Anselmo Hevia Riquelme.
Joaquin Walker-Martinez.
Luis Antonio Vergara.
Adolfo Guerrero.

IV.

Convention.

International law.*)

Their Excellencies, the Presidents of Ecuador, Paraguay, Bolivia, Colombia, Honduras, Panama, Cuba, Peru, the Dominican Republic, El Salvador, Costa Rica, the United States of Mexico, Guatemala, Uruguay, the Argentine Republic, Nicaragua, the United States of Brazil, the United States of America, and Chili;

Desiring that their respective countries should be represented at the Third International American Conference, sent, thereto, duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

Ecuador.—Dr. Emilio Arévalo; Olmedo Alfaro.

Paraguay.—Manuel Gondra; Arsenio López Decoud; Gualberto Cardús y Huerta.

Bolivia.—Dr. Alberto Gutiérrez; Dr. Carlos V. Romero.

Colombia.—Rafael Uribe Uribe; Dr. Guillermo Valencia.

Honduras.—Fausto Dávila.

Panama.—Dr. José Domingo de Obaldía.

Cuba.—Dr. Gonzalo de Quesada; Rafael Montoro; Dr. Antonio González Lanuza.

Dominican Republic.—E. C. Joubert.

Peru.—Dr. Eugenio Larrabure y Unánue; Dr. Antonio Miró Quesada; Dr. Mariano Cornejo.

El Salvador.—Dr. Francisco A. Reyes.

Costa Rica.—Dr. Ascension Esquivel.

United States of Mexico.—Dr. Francisco Léon de La Barra; Ricardo Molina-Hübbe; Ricardo García Granados.

Guatemala.—Dr. Antonio Batres Jáuregui.

Uruguay.—Luís Melian Lafinur; Dr. Antonio María Rodríguez; Dr. Gonzalo Ramírez.

Argentine Republic.—Dr. J. V. González; Dr. José A. Terry; Dr. Eduardo L. Bidau.

Nicaragua.—Luís F. Corea.

United States of Brazil.—Dr. Joaquim Aurelio Nabuco de Araujo; Dr. Joaquim Francisco de Assis Brasil; Dr. Gastão da Cunha;

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*) Ont ratifié le Honduras (le 5 février 1907); — la Colombie (le 10 mars 1907); — l'Uruguay (le 27 mars 1907); — le Guatémala (le 19 avril 1907); — le Panama (au mois d'avril 1907); — le Salvador (le 11 mai 1907); — le Mexique (le 10 juin 1907); — la République Dominicaine (le 15 juin 1907); — le Brésil (le 7 décembre 1907); — les Etats-Unis d'Amérique (le 8 février 1908); — le Pérou (le 20 mars 1908); — la Costa Rica (le 26 octobre 1908); — le Chili (le 3 juillet 1909); — l'Equateur (au mois de novembre 1909). — V. aussi Treaty Series (Washington) No. 565.

Dr. Alfredo de Moraes Gomes Ferreira; Dr. João Pandiá Calogeras; Dr. Amaro Cavalcanti; Dr. Joaquim Xavier da Silveira; Dr. José P. da Graça Aranha; Antonio da Fontoura Xavier.

United States of America.—William I. Buchanan; Dr. L. S. Rowe; A. J. Montague; Tulio Larrinaga; Dr. Paul S. Reinsch; Van Leer Polk.

Chili.—Dr. Anselmo Hevia Riquelme; Joaquín Walker Martínez; Dr. Luís Antonio Vergara; Dr. Adolfo Guerrero;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, have agreed, to establish an international Commission of Jurists, in the following terms:

Art. 1. There shall be established an international Commission of Jurists, composed of one representative from each of the signatory States, appointed by their respective Governments, which commission shall meet for the purpose of preparing a draft of a Code of Private International Law and one of Public International Law, regulating the relations between the Nations of America. Two or more Governments may appoint a single representative, but such representative shall have but one vote.

Art. 2. Notice of the appointment of the members of the Commission shall be addressed by the Governments adhering to this Convention, to the Government of the United States of Brazil, which shall take the necessary steps for the holding of the first meeting.

Notice of these appointments shall be communicated to the Government of the United States of Brazil before April 1st, 1907.

Art. 3. The first meeting of said Commission shall be held in the City of Rio de Janeiro during the year 1907. The presence of at least twelve of the representatives of the signatory States shall be necessary for the organization of the Commission.

Said Commission shall designate the time and place for subsequent sessions, provided, however, that sufficient time be allowed from the date of the final meeting to permit of the submission to the signatory States of all drafts or all important portions thereof at least one year before the date fixed for the Fourth International American Conference.

Art. 4. Said Commission after having met for the purpose of organization and for the distribution of the work to the members thereof, may divide itself into two distinct committees, one to consider the preparation of a draft of a Code of Private International Law, and the other for the preparation of a Code of Public International Law. In the event of such division being made, the committees must proceed separately until they conclude their duties, or else as provided in the final clause of article three.

In order to expedite and increase the efficiency of this work, both committees may request the Governments to assign experts for the consideration of especial topics. Both committees shall also have the

power to determine the period within which such special reports shall be presented.

Art. 5. In order to determine the subjects to be included within the scope of the work of the Commission, the Third International Conference recommends to the Commissions that they give special attention to the subjects and principles which have been agreed upon in existing treaties and conventions, as well as to those which are incorporated in the national laws of the American States, and furthermore recommends to the special attention of the Commission the Treaties of Montevideo of 1889 and the debates relating thereto, as well as the projects of conventions adopted at the Second International Conference of the American States held in Mexico in 1902, and the discussions thereon; also all other questions which give promise of juridical progress, or which tend to eliminate the causes of misunderstanding or conflicts between said States.

Art. 6. The expense incident to the preparation of the drafts, including the compensation for technical studies made pursuant to article four, shall be defrayed by all the signatory States in the proportion and form established for the support of the International Bureau of the American Republics, of Washington, with the exception of the compensation of the members of the Commission, which shall be paid to the representatives by their respective Governments.

Art. 7. The Fourth International Conference of American States shall embody in one or more treaties, the principles upon which an agreement may be reached, and shall endeavor to secure their adoption and ratification by the Nations of America.

Art. 8. The Governments desiring to ratify this Convention, shall so advise the Government of the United States of Brazil, in order that the said Government may notify the other Governments through diplomatic channels, such action taking the place of an exchange of Notes.

In testimony whereof the Plenipotentiaries and Delegates have signed the present Convention, and affixed the Seal of the Third International American Conference.

Made in the city of Rio de Janeiro the twenty-third day of August, nineteen hundred and six, in English, Portuguese, and Spanish, and deposited with the Secretary of Foreign Affairs of the United States of Brazil, in order that certified copies thereof be made, and sent through diplomatic channels to the signatory States.

For Ecuador.
Emilio Arévalo.
Olmedo Alfaro.

For Paraguay.
Manoel Gondra.
Arsenio López Decoud.
Gualberto Cardús y Huerta.

For Bolivia.
Alberto Gutiérrez.
Carlos V. Romero.

For Colombia.
Rafael Uribe Uribe.
Guillermo Valencia.

For Honduras.
Fausto Dávila.

For Panama.
José Domingo de Obaldía.

For Cuba.
Gonzalo de Quesada.
Rafael Montoro.
Antonio González Lanuza.

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Emilio C. Joubert.

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Eugenio Larrabure y Unánue.
Antonio Miró Quesada.
Mariano Cornejo.

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Joaquim Aurelio Nabuco de Araujo.
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Alfredo de Moraes Gomes Ferreira.
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Amaro Cavalcanti.
Joaquim Xavier da Silveira.
José P. da Graça Aranha.
Antonio da Fontoura Xavier.

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Ascensión Esquivel.

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Francisco León de La Barra.
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Ricardo Garcia Granados.

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Antonio Batres Jáuregui.

For Uruguay.
Luis Melian Lafinur.
Antonio María Rodríguez.
Gonzalo Ramírez.

For the Argentine Republic.
J. V. González.
José A. Terry.
Eduardo L. Bidau.

For Nicaragua.
Luis F. Corea.

For the United States of America.
William I. Buchanan.
L. S. Rowe.
A. J. Montague.
Tulio Larrinaga.
Paul S. Reinsch.
Van Leer Polk.

For Chili.
Anselmo Hevia Riquelme.
Joaquin Walker Martínez.
Luis Antonio Vergara.
Adolfo Guerrero.

V.

Resolution.

Arbitration.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

To ratify adherence to the principle of arbitration; and to the end that so high a purpose may be rendered practicable, to recommend to

the Nations represented at this Conference that instructions be given to their Delegates to the Second Conference to be held at The Hague, to endeavor to secure by the said Assembly, of worldwide character, the celebration of a General Arbitration Convention, so effective and definite that, meriting the approval of the civilized world, it shall be accepted and put in force by every nation.*)

Made and signed in the City of Rio de Janeiro, on the seventh day of the month of August nineteen hundred and six, in English, Spanish, Portuguese and French, and deposited in the Department of Foreign Affairs of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

For Ecuador.
Emilio Arévalo.
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For Paraguay.
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Gualberto Cardús y Huerta.

For Bolivia.
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For the Argentine Republic.
J. V. González.
José A. Terry.
Eduardo L. Bidau.

For Nicaragua.
Luis F. Corea.

---

*) V. Convention pour le règlement pacifique des conflits internationaux, signée à la Haye le 18 octobre 1907; N. R. G. 3. s. III, p. 360.

For the United States of Brazil.
Joaquim Aurelio Nabuco de Araujo.
Gastão da Cunha.
Joaquim Francisco de Assis Brasil.
Alfredo de Moraes Gomes Ferreira.
João Pandiá Calogeras.
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Antonio da Fontoura Xavier.

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Paul S. Reinsch.
Van Leer Polk.

For Chili.
Anselmo Hevia Riquelme.
Joaquín Walker Martinez.
Luís Antonio Vergara.
Adolfo Guerrero.

VI.

Resolution.

Reorganization of the Bureau of the American Republics.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

Art. 1. To continue the International Union of the American Republics, created by the First Conference, and confirmed by the Second.

The purposes of the International Bureau of the American Republics, which will represent said Union, are the following:

1. To compile and distribute commercial information and prepare commercial reports;

2. To compile and classify information respecting the Treaties and Conventions between the American Republics, and between the latter and non-American States;

3. To supply information on educational matters;

4. To prepare reports on questions assigned to it by resolutions of the International American Conferences.

5. To assist in obtaining the ratification of the resolutions and conventions adopted by the Conferences;

6. To carry into effect all resolutions the execution of which may have been assigned or may hereafter be assigned to it by the International American Conferences;

7. To act as a Permanent Committee of the International American Conferences, recommending topics to be included in the programme of the next Conference; these plans must be communicated to the various Gov-

ernments forming the Union, at least six months before the date of the meeting of the next Conference;

8. To submit, within the same period, a report to the various Governments on the work of the Bureau during the term covered since the meeting of the last Conference, and also special reports on any matter which may have been referred to it for report;

9. To keep the records of the International American Conferences.

Art. 2. The International Bureau of the American Republics shall be administered by a Governing Board, consisting of the Diplomatic Representatives of all the Governments of said Republics accredited to the Government of the United States of America, and of the Secretary of State of the United States, who will act as Chairman of said Governing Board.

Art. 3. Any diplomatic representative unable to attend the meetings of the Board, may transmit his vote, stating his reasons therefor in writing. Representation by proxy is prohibited.

Art. 4. The Governing Board shall meet in regular session the first Wednesday of every month, excepting in the months of June, July and August, and in special session at the call of the Chairman, issued on his own initiative or at the request of two members of the Board.

The attendance of five members at any ordinary or special session shall be sufficient to permit the Board to proceed with its business.

Art. 5. In the absence of the Secretary of State of the United States, the senior diplomatic representative in Washington, present, shall act as Chairman.

Art. 6. At the regular session to be held in November of this year, the Governing Board shall fix by lot the order of precedence among all the representatives of the American Republics forming the Union, in order to create a Supervisory Committee. The first four on this list and the Secretary of State of the United States, will constitute the first Supervisory Committee, and the four members of the Committee shall be replaced by turn, one every year, so that the Committee will be totally renewed after four years. The outgoing members shall always be replaced by those following on the list, the same method being observed in the event of resignation.

The Secretary of State of the United States shall always be the Chairman of the Committee.

The Supervisory Committee shall hold a regular session the first Monday of every month, and three members shall be sufficient to constitute a quorum.

Art. 7. The direction and administration of the Bureau shall be entrusted to a Director appointed by the Governing Board.

Art. 8. The director shall have charge of the fulfillment of the purposes of the Bureau, in accordance with these fundamental rules, regulations and the resolutions of the Governing Board.

He shall have charge of the correspondence with the Governments of the Union through their Diplomatic Representatives in Washington or directly, in the absence of such representatives. He must attend, in an

advisory capacity, the meetings of the Governing Board, of the Committees and of the International Conferences of the countries of the Union, except in cases of resolution to the contrary.

Art. 9. The personnel of the Bureau, the number of employees, their appointment, duties, and, everything pertaining thereto, shall be determined by the regulations.

Art. 10. The Governments of the Union shall have the right to send at their own cost to the Bureau a special agent to secure such data and information as may be requested, and at the same time such as his Government may require as to the commerce and industries of any of the countries of America.

Art. 11. The Director of the Bureau shall present at the regular session in the month of May, a detailed budget of the expenses for the following year. This budget, after approval by the Governing Board, shall be transmitted to the various Governments represented in the Union, with a statement of the quota due from each, which quota shall be fixed in proportion to the population of each country.

Art. 12. The Bureau shall issue such publications as the Governing Board may determine, and shall publish a Bulletin at least once a month.

All geographical maps published by the Bureau, shall bear a statement thereon that they do not constitute documents approved by the Government of the country to which they apply, nor by the Government of the countries whose boundaries appear thereon, unless the former and the latter Governments shall have expressly given their approval, which shall, in such case, also be stated on the maps.

All these publications, with the exception of those determined by the Governing Board, shall be distributed gratuitously.

Art. 13. In order to assure the greatest possible accuracy in the publications of the Bureau each country belonging to the Union shall transmit, directly to said Bureau, two copies of the official documents or publications relating to matters connected with the purposes of the Union.

Art. 14. All the publications of the Bureau shall be carried free of charge by the mails of the American Republics.

Art. 15. The Bureau shall be governed by the Regulations adopted at this Conference, which Regulations, however, may be amended by the Governing Board, but shall in no way contravene these fundamental rules.

Art. 16. The American Republics bind themselves to continue to support this Bureau for a term of ten years from this date, and to pay their respective quotas. Any of them may cease to belong to the Union, upon giving notice to the Bureau two years in advance. The Bureau shall continue for a new term of ten years, and thus successively under the same conditions for consecutive terms of ten years, unless twelve months before the expiration of such term, a majority of the members of the Union shall express the wish, through the Secretary of State of the United States, to withdraw therefrom on the expiration of the term.

Art. 17. All of the fundamental rules and regulations by which the Bureau has been governed heretofore, are hereby repealed.

Regulations.

Art. 1. Calls to meetings shall state the object thereof and shall be issued at least three days in advance, excepting in cases of great urgency.

When during the discussion of any matter, one of the members of the Board shall request a second discussion, such discussion shall be granted without further debate, at the close of the first discussion but such discussion shall not take place until the next meeting.

Before the approval of the minutes of a meeting, the resolutions adopted thereat may be reconsidered, upon the request of two members of the Board.

Art. 2. The Supervisory Committee shall examine the accounts of the Bureau at least once a month. It shall recommend to the Governing Board the improvements to be made regarding publications, the library and anything that it may deem advisable and beneficial to the Bureau, or to give greater efficiency to its work.

The Committee shall have, in addition, the powers determined by these Regulations.

Art. 3. The personnel of the Bureau shall consist of a Director and such other employees as the Governing Board may determine and appoint. In no case shall the same person receive a salary for more than one of the offices of the Bureau.

Art. 4. The Director, as the Chief of the Bureau, shall have charge of all the matters pertaining thereto, under the immediate direction of the Supervisory Committee.

He shall prepare, with the approval of said Committee, the internal regulations of the Bureau, which must be observed by the employees.

He shall appoint and remove the messengers and other subordinate employees.

He shall supervise the proper collection and disbursement of the funds of the Bureau, for which he shall be personally responsible.

He shall also supervise the publication of the Bulletin and other publications of the Bureau.

He shall sign all vouchers, in accordance with the budget or resolutions approved by the Governing Board.

He shall not absent himself except with the permission of the Chairman of the Board.

At the meeting in November, he shall submit an annual report on the activities of the Bureau, its receipts and disbursements, its work and plans, proposing such changes as may, in his opinion, be desirable in order to improve the service and extend the sphere of action of the Bureau.

One week before the May meeting, he shall submit an estimate of expenses for the following year.

In the absence of the Director, his duties shall be discharged temporarily by such employee as the Supervisory Committee may designate.

Art. 5. The positions in the Bureau shall be filled upon examination held in the manner prescribed by the internal regulations.

Transitory Provision.

All previous regulations are repealed, excepting those pertaining to the number and duties of the employees and other matters relating to the personnel of said Bureau, which shall be subject to the provisions in force.

Made and signed in the City of Rio de Janeiro, on the seventh day of the month of August nineteen hundred and six, in English, Spanish and Portuguese, and deposited in the Department of Foreign Affairs of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

For Ecuador.
Emilio Arévalo.
Olmedo Alfaro.

For Paraguay.
Manoel Gondra.
Arsenio López Decoud.
Gualberto Cardús y Huerta.

For Bolivia.
Alberto Gutiérrez.
Carlos V. Romero.

For Colombia.
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Guillermo Valencia.

For Honduras.
Fausto Dávila.

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Antonio González Lanuza.

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Mariano Cornejo.

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Gastão da Cunha.
Alfredo de Moraes Gomes Ferreira.
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Eduardo L. Bidau.

For Nicaragua.
Luís F. Corea.

For the United States of America.
William I. Buchanan.
L. S. Rowe.
A. J. Montague.
Tulio Larrinaga.
Paul S. Reinsch.
Van Leer Polk.

For Chili.
Anselmo Hevia Riquelme.
Joaquín Walker Martínez.
Luís Antonio Vargara.
Adolfo Guerrero.

VII.

Resolution.

Building for the International Bureau of the American Republics.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

1. To express its gratification that the project to establish a permanent centre of information and of interchange of ideas among the Republics of this Continent, as well as the erection of a building suitable for the Library in memory of Columbus has been realized.

2. To express the hope that, before the meeting of the next International American Conference the International Bureau of American Republics will be housed in such a way as to permit it to properly fulfil the important functions assigned to it by this Conference.

Made and signed in the City of Rio de Janeiro, on the thirteenth day of the month of August, nineteen hundred and six, in English, Portuguese and Spanish, and deposited in the Department of Foreign Relations of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

For Ecuador.
Emilio Arévalo.
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Antonio da Fontoura Xavier.

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For Chili.
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Joaquín Walker Martínez.
Luís Antonio Vergara.
Adolfo Guerrero.

VIII.

Resolution.

Recommending the creation of special divisions in the departments of foreign affairs and determining their functions.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

To recommend to the Governments represented the appointment of a Committee responsible to the Minister of Foreign Affairs and composed, if possible, of persons that have heretofore served as Delegates to International American Conferences, to the end that:

I. The resolutions adopted by the International American Conferences shall be approved.

II. The International Bureau of American Republics shall be furnished with all information necessary for the preparation of its work and that

III. The Committee shall exercise such further functions as the respective Governments shall deem proper.

Made and signed in the City of Rio de Janeiro, on the thirteenth day of the month of August, nineteen hundred and six, in English, Portuguese and Spanish, and deposited in the Department of Foreign Affairs of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

For Ecuador.
Emilio Arévalo.
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Antonio González Lanuza.

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Emilio C. Joubert.

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Eugenio Larrabure y Unánue.
Antonio Miró Quesada.
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For El Salvador.
Dr. Francisco A. Reyes.

For Costa Rica.
Ascensión Esquivel.

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Antonio da Fontoura Xavier.

For the United States of America.
William I. Buchanan.
L. S. Rowe.
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Paul S. Reinsch.
Van Leer Polk.

For Chili.
Anselmo Hevia Riquelme.
Joaquín Walker Martinez.
Luís Antonio Vergara.
Adolfo Guerrero.

IX.

Resolution.

Section of Commerce, Customs and Commercial Statistics.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

Art. I. The Governing Board of the Bureau of American Republics shall create a special Section dependent upon it, which shall be known as the Section of Commerce, Customs, and Commercial Statistics, and shall place it in charge of an expert in these matters.

Art. II. This Section shall have as its chief object a special study of the customs legislation, consular regulations and commercial statistics of the Republics of America, and shall report to the Governing Board of the Bureau of American Republics, within the shortest delay, and at least one year before the meeting of the next International American Conference,

all information concerning the measures to be adopted for the purpose of securing:

(*a*) The simplifying and making uniform, as far as possible, of the customs and consular regulations referring to the entrance and despatch of ships and goods;

(*b*) The making uniform of the bases on which the official statistics of all the American countries shall be compiled.

(*c*) The greatest possible circulation of statistical and commercial data and the greatest development and amplification of commercial relations between American Republics;

(*d*) That the Custom Houses of American countries shall indicate the duties to be paid on articles of importation when samples of such articles are sent to them.

Art. III. The Committee to be appointed in each country in conformity with the resolution approved by the Third Pan-American Conference at its Session on the 13th August, shall be charged with the duty of collecting the data desired by the Department of Commerce, Customs and Statistics of the Bureau of American Republics.

Art. IV. The Governing Board, as soon as the information shall have been presented to them, shall immediately communicate, the same to the Governments of the American Republics, so that it may be duly studied and may serve as a basis for the instructions to be given to the Delegates to the Fourth Conference.

Made and signed in the City of Rio de Janeiro, on the sixteenth day of the month of August nineteen hundred and six, in English, Spanish and Portuguese, and deposited in the Department of Foreign Affairs of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

For Ecuador.
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For Chili.

Anselmo Hevia Riquelme.
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Luís Antonio Vergara.
Adolfo Guerrero.

X.

Resolution.

Public debts.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

To recommend to the Governments represented therein that they consider the point of inviting the Second Peace Conference, at The Hague, to examine the question of the compulsory collection of public debts, and, in general, means tending to diminish between Nations conflicts having an exclusively pecuniary origin.*)

*) V. Convention concernant la limitation de l'emploi de la force pour le recouvrement de dettes contractuelles, signée à la Haye, le 18 octobre 1907; **N. R. G.** 3. s. III, p. 414.

Made and signed in the City of Rio de Janeiro, on the twenty-second day of the month of August, nineteen hundred and six, in English, Portuguese and Spanish, and deposited in the Department of Foreign Affairs of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

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Olmedo Alfaro.

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Adolfo Guerrero.

XI.

Resolution.

Liberal professions.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

To confirm integrally the Treaty upon the practice of the liberal professions, signed on the 27th of January, 1902, at the Second Conference, held at Mexico,*) and recommends the Republics composing it to adopt and ratify the same.

Made and signed in the City of Rio de Janeiro, on the twenty-second day of the month of August, nineteen hundred and six, in English, Portuguese and Spanish, and deposited in the Department of Foreign Relations of the Government of the United States of Brazil, in order that certified copies thereof be made and forwarded through diplomatic channels to each one of the Signatory States.

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*) V. ci-dessus, p. 191.

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XII.

Resolution.

Commercial relations.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

Art. I. The International Bureau of American Republics, after due collection and study of the necessary material, shall elaborate a project containing the definite bases of a contract which it may be advisable to conclude with one or more steamship companies for the establishment or maintenance of navigation lines connecting the principal ports of American Countries;

Art. II. These bases shall be communicated in due time, to the signatory Governments so that they may instruct their Delegates to the end that the next International American Conference may give its opinion thereon;

Art. III. To recommend to the Governments represented at this Conference that, with the aim of bettering the means of increasing trade, they should conclude conventions among themselves, stimulating as far as possible, a rapid service of communications by railway, steamer and telegraphic lines, as well as postal conventions for the carriage of samples, so that goods and commercial advertisements may circulate with rapidity and economy;

Art. IV. To recommend as well to the Governments of the signatory countries that they should seek to connect their railroads and telegraphic lines.

Art. V. To recommend that goods in transit over the routes of communication of any country whatever, shall be free from all duties, paying solely for services rendered by the adequate installations of the ports and roads passed over, on the same scale as such services are paid for by goods destined for the consumption of the country over whose territory the transit takes place.

Made and signed in the City of Rio de Janeiro, on the twenty-third day of the month of August nineteen hundred and six, in English, Spanish and Portuguese, and deposited in the Department of Foreign Affairs of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

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XIII.

Resolution.

Future conferences.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

Given the satisfactory results that have been attained at past International American Conferences, it is undoubtedly convenient to continue to celebrate them periodically, at short intervals so as to maintain and increase at each meeting the unity of plan and of purpose which has guided their important deliberations.

The Committee while considering the place of meeting of the next Conference received from a number of delegates the suggestion of the city of Buenos Aires.

Although this suggestion was received with unanimous sympathy, a fact duly registered in the Minutes, the Committee considered that it ought not to alter established precedents, as a premature naming of the place might be attended with various inconveniences.

In accordance with these views of the Committee, the Third International American Conference

resolves:

I. The Governing Board of the International Bureau of American Republics is authorized to designate the place at which the Fourth International Conference shall meet, which meeting shall be within the next five years; to provide for the drafting of the programme and regulations and to take into consideration all other necessary details; and to set another date in case the meeting of the said Conference cannot take place within the prescribed limit of time.

II. It is recommended to the said Governing Board to designate the date and place for the next Conference, one year in advance if possible, and to formulate the programme six months before the prescribed date.

Made and signed in the City of Rio de Janeiro, on the twenty-third day of the month of August nineteen hundred and six, in English, Spanish, and Portuguese, and deposited in the Department of Foreign Affairs of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

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XIV.

Resolution.

Natural resources.

The undersigned, Delegates of the Republics represented in the Third International American Conference, duly authorized by their Governments, have approved the following Resolution:

The Third International American Conference

resolves:

1. That the Bureau of American Republics be authorized to establish as a part of its Section of Commerce, Customs and Statistics, a special service destined to facilitate the development of the natural resources and means of communication within the various Republics of America.

To this end the Bureau is charged with the duty of gathering and classifying, permanently, all trustworthy information on the natural resources, projected public works, and legal conditions under which it is possible to obtain from the American Governments, concessions of lands, mines and forests.

This information shall be put at the disposition of the Governments and persons interested therein, and shall be regularly published in the Bulletins of the Bureau.

2. The Bureau shall be bound to render its services, to the Governments of America, when any one of them shall demand such services, with a view to obtaining information that might be useful to them with regard to projected public works; and it shall preserve in its archives, at the disposal of interested persons, the plans and specifications of the said works.

3. The next International Conference of American States shall consider the following subject:

The study of the laws that regulate public concessions in the various countries of America, in order to recommend to the American Governments, for their consideration, such agreements or dispositions as would best contribute to the development of the industries and natural resources of the Republics.

In order that all the material necessary for this discussion may be gathered, the Bureau is hereby charged with the duty of presenting a special Memoir to the next Pan-American Conference on the laws relative to the above-mentioned matters, which are in force to-day in the various American Republics.

Made and signed in the City of Rio de Janeiro, on the twenty-third day of the month of August, nineteen hundred and six, in English, Portuguese and Spanish, and deposited in the Department of Foreign Relations of the Government of the United States of Brazil, in order that certified copies thereof be made, and forwarded through diplomatic channels to each one of the Signatory States.

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XV.

Resolution.

Sanitary police.

The Third International American Conference recognizes the utility of the principles of international sanitary police which inspired the last convention celebrated in Rio de Janeiro, applicable to a definite region and the convention signed in Washington on the 14th of October, 1905,*) which is applicable to all the nations of America, and, in virtue of this, recommends to the countries here represented:

1. That, as a general rule, they adopt the said international sanitary convention of Washington, adhering to it and putting its precepts into practice.

2. The adoption of measures tending to obtain the sanitation of the cities, and especially of the ports, and to attain as far as possible to a better knowledge and a greater observance of hygienic and sanitary principles.

3. The advisability that all American nations attend the next international sanitary convention to be celebrated in the City of Mexico in December, 1907, and that they instruct their respective delegates to study and solve the following points:

A. Practical means of rendering effective the second of the present recommendations.

B. Establishment and regulation in each of the American countries of a committee composed of three medical or sanitary authorities to constitute, under the direction of the International Sanitary Bureau, estab-

*) V. N. R. G. 3. s. II, p. 277.

lished at Washington, an international sanitary informing committee of the American Republics, contributions to meet and to communicate between themselves data referring to public health and for any other purpose that the Convention may think proper.

C. Establishment and regulation in some place in South America designated by the convention of a center of sanitary information that shall supply to the already existing International Sanitary Bureau the elements necessary to carry out the recommendations 5, 6, and 7 on sanitary police made by the Second International American Conference.

D. Establishment of relations between the International Bureau established at Washington, and the Bureau Sanitaire International, of Paris, in order to obtain the best information in sanitary matters and take resolutions tending to the object entrusted to both Bureaus.

4. In accordance with the provisions of the article 3, paragraph c, the city of Montevideo is hereby designated as the seat of the center of sanitary information.

August 23, 1906.

XVI.

Resolution.

Intercontinental Railway.

The Third International American Conference resolves

I.

1. To confirm the existence of the permanent committee on the continental railway;*) and

2. That the governing board of the International Bureau of American Republics shall be empowered to increase the number of members of the committee, or to replace them, if necessary, in view of the information presented by the president of the former.

II.

1. That with the object of contributing within the shortest possible time to the termination of the Pan-American Railway, each Republic, when giving its support to the construction of lines destined to serve local interests, should follow, as far as possible, the intercontinental route;

2. That each State in which there are sections to be built should seek to organize associations of engineers destined to complete the plans, specifications, and estimates that shall serve to fix the amount of capital necessary to complete the construction;

3. That the Governments of the different States shall determine, as soon as possible, what concessions of land, subventions, interest guaranties on invested capital, exemptions of duty on material for the construction

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*) V. ci-dessus, p. 162.

and rolling stock, and any other concessions they deem it advisable to grant; and

4. That the Governments shall designate a person or center that shall maintain itself in constant communication with the permanent committee on the continental railway, so as to impart to it and obtain from it information and data relative to the undertaking.

III.

To express its gratitude to that body for the zeal, intelligence, and perseverance which it has placed at the service of a work which will contribute to strengthen and will bring about the practical consummation of the unity of America.

August 23, 1906.

XVII.

Resolution.

The coffee industry.

The third International American Conference resolves:

1. To recommend to the Governments the celebration of an International American Conference which shall adopt efficacious measures for the benefit of coffee products, and tend to combat the crisis which during many years has overwhelmed this important branch of the wealth of many of the Republics of the continent.

2. The city of São Paulo, in the United States of Brazil, is hereby designated as the seat of the said Conference.

August 23, 1906.

XVIII.

Resolution.

Fluctuations in exchange.

The Third International American Conference resolves:

1. To recommend to the Governments that they cause to be prepared for the next conference a detailed study of the monetary system in force in each one of the American Republics, its history, the fluctuations of the type of exchange which have taken place in the last twenty years, the preparation of tables showing the influence of the said fluctuations on commerce and industrial development.

2. To recommend also that these studies be transmitted to the International Bureau of American Republics in order that the latter may prepare a résumé of the said studies, publish and distribute them among the several Governments at least six months before the meeting of the next international conference.

August 23, 1906.

XIX.

Motion.

Peace in Central America.

That the Third International American Conference shall address to the Presidents of the United States of America and of the United States of Mexico a note, in which the Conference which is being held at Rio expresses its satisfaction at the happy results of their mediation for the celebration of peace between the Republics of Guatemala, Honduras, and Salvador.

July 23, 1906.

XX.

Motion.

The disaster by Earthquake at Valparaiso.

That, according to the usual forms, it shall express to the Government of Chili the deep sorrow with which it has received the news of the disaster which has befallen a sister nation; that it shall inform it of the sincerity with which the American Republics share its grief, and that it shall manifest to it, in due time, the hope that it entertains that the catastrophe will not prove to have the grave character attributed to it by the first news.

This assembly wishes to express its hope that out of the actual ruins shall shortly arise a greater prosperity and greatness for the sister Republic.

August 21, 1906.

XXI.

Motion.

Greeting to Chili.

The Conference, about to close its sessions, desires to have the following wish registered in the minutes:

That, at the opening of the Fourth International American Conference, days of joy may again have arisen for the Chilian nation, which lies today struck to the heart by a great disaster.

The penultimate session of the Conference was fixed for the 26th day of August, at 11 o'clock in the morning.

August 23, 1906.

20.

FRANCE, MAROC.

Règlement relatif à la protection des étrangers à Tanger, arrêté d'un commun accord entre la légation de France*) et le Gouvernement marocain, le 19 août 1863.**)

de Clercq, Recueil des Traités de la France. XV (Supplément), p. 472.

La protection est individuelle et temporaire.

Elle ne s'applique donc pas en général aux parents de l'individu protégé.

Elle peut s'appliquer à sa famille, c'est-à-dire à la femme et aux enfants demeurant sous le même toit.

Elle est tout au plus viagère, jamais héréditaire, sauf la seule exception admise en faveur de la famille Benchimol, qui de père en fils, a fourni et fournit encore des cens aux interprètes au poste de Tanger.

Les protégés se divisent en deux catégories.

La première catégorie comprend les indigènes employés par la Légation et par les différentes Autorités consulaires françaises.

La seconde catégorie se compose des facteurs, courtiers ou agents indigènes employés par les négociants français pour leurs affaires de commerce.

Il n'est pas inutile de rappeler ici que la qualité de négociant n'est reconnue qu'à celui qui fait en gros le commerce d'importation ou d'exportation, soit en son propre nom, soit comme commissionnaire.

Le nombre des courtiers indigènes jouissant de la Protection française est limité à deux par maison de commerce. Par exception, les maisons de commerce qui ont des comptoirs dans différents ports pourront avoir deux courtiers attachés à chacun de ces comptoirs et jouissant à ce titre de la Protection française.

La Protection française ne s'applique pas aux indigènes employés par des Français à des exploitations rurales.

Néanmoins, en égard à l'état des choses existant et d'accord avec l'Autorité marocaine, le bénéfice de la Protection accordée jusqu'ici aux individus compris dans le paragraphe précédent subsistera pendant deux mois, à dater du 1er septembre prochain.

Il est entendu, d'ailleurs, que les cultivateurs, gardiens de troupeaux, ou autres paysans indigènes au service des Français, ne pourront être l'objet de poursuites judiciaires sans que l'Autorité consulaire compétente

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*) Ont adhéré la Belgique, la Sardaigne, les Etats-Unis d'Amérique, la Grande-Bretagne et la Suède.

**) Comp. Art. 10 de la Convention de Madrid du 3 juillet 1880; N. R. G. 2. s. VI, p. 628.

en soit immédiatement informée, afin que celle-ci puisse sauvegarder les intérêts de ses nationaux.

La liste de tous les Protégés sera remise par le Consulat respectif à l'autorité du lieu, qui recevra également avis des modifications apportées par la suite au contenu de cette liste.

Chaque protégé sera muni d'une carte nominative de Protection en français et en arabe, indiquant la nature des services qui lui assurent ce privilège.

Toutes ces cartes seront délivrées par la Légation de France à Tanger.

Tanger, le 19 août 1863.

21.

TURQUIE, PERSE.

Arrangement provisoire pour la délimitation des frontières; signé à Constantinople, le 2 août 1869.*)

Noradounghian, Recueil d'actes internationaux de l'Empire ottoman III, p. 290.

(Traduction du turc.)

Article Ier. Les deux Parties Contractantes apporteront le plus grand soin au maintien et à l'affermissement de l'ordre et de la sécurité publique sur la frontière séparant les deux Etats.

Art. II. Le principe de statu quo, qui consiste dans le maintien tel quel sur les lieux en litige de l'état de choses existant au moment de la visite et de l'inspection faites par les commissaires des quatre Puissances, sera strictement respecté par les deux Parties Contractantes, ainsi que par leurs agents sur les lieux, et on se gardera de contrevenir à ce principe.

Art. III. Les terrains en litige continueront à être placés, jusqu'au moment de la délimitation définitive, sous l'administration de l'Etat où ils se trouvaient lors de l'adoption du principe de statu quo, sans que toutefois cette situation puisse être considérée comme un titre de possession.

Art. IV. Aucune construction, sous quelque nom où de quelque façon que ce soit, ne sera élevée dorénavant, de part ou d'autre, sur les terrains dont il s'agit. Si des bâtisses ou des signaux quelconques y étaient même établis, ils ne pourront en aucune manière servir de titres de possession et de propriété lors de la délimitation de ces terrains.

Art. V. Par exception aux dispositions de l'article précité, les deux Parties Contractantes sont convenues de permettre la réparation par les

*) 24 Rébi-ul-Akhir 1286.

ayants-droit des habitations délabrées de Kasli-Gueul, sans que toutefois cette réparation puisse jamais être invoquée, lors de la délimitation, comme un acte de propriété.

Art. VI. En cas de contestation en pareille matière, les agents des deux Etats se trouvant sur les lieux tâcheront avant tout d'aplanir la difficulté à l'amiable et d'une manière conforme au prestige et aux droits des deux Parties, et cela soit par correspondance, soit verbalement; s'ils ne parviennent pas toutefois à tomber d'accord, ils rapporteront le fait aux autorités centrales respectives et en attendront les instructions.

Art. VII. Le présent arrangement provisoire n'aura de force que jusqu'au moment de la délimitation de la ligne frontière. En tout cas, il ne pourra porter atteinte aux droits de propriété des deux Parties, ni infirmer la force des correspondances, protêts ou d'autres actes de réclamation antérieurement échangés à propos des terrains en litige dont il s'agit et des constructions élevées.

22.

TURQUIE.

Décrets concernant la Dette publique ottomane; du 8/20 décembre 1881 et du 1/14 septembre 1903.

Parliamentary Papers. Turkey No. 1 (1911); No. 1 (1905). — Cd. 5736, 2407.

Décret du 28 Mouharrem, 1299 (le 8 (20) décembre, 1881).

Le Gouvernement Impérial ottoman, à la suite des déclarations faites par son représentant au Congrès de Berlin, dans la séance du 11 juillet, 1878,*) et conformément à l'engagement qu'il a pris par la note du 3 octobre, 1880, a invité, par une note subséquente du 23 octobre de la même année, les porteurs de titres de la Dette publique ottomane à choisir un certain nombre de délégués, qui devraient se rendre au plus tôt à Constantinople, à l'effet de s'entendre directement avec le Gouvernement Impérial sur un arrangement équitable et pratique de la Dette publique ottomane, ainsi que sur le moyen de reprendre le service des intérêts et de l'amortissement de cette Dette.

Les porteurs de ladite Dette ont répondu à cette invitation, en nommant comme représentants:

Les porteurs anglais et néerlandais:

The Right Honourable Robert Bourke.

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*) V. N. R. G. 2. s. III, p. 439.

Les porteurs français:

M. Valfrey, ancien Sous-Directeur politique au Ministère des Affaires Etrangères de France.

Les porteurs austro-hongrois:

Son Excellence le Baron de Mayr, ancien envoyé extraordinaire et Ministre plénipotentiaire d'Autriche-Hongrie à Washington.

Les porteurs allemands:

M. Primker, Conseiller de Justice.

Les porteurs italiens:

M. Mancardi, ancien député, ancien Directeur général de la Dette publique d'Italie.

Lesdits délégués des porteurs se sont présentés, au mois d'août et septembre de l'année courante, à la Sublime Porte.

Le Gouvernement Impérial a, de son côté, institué une commission spéciale, chargée de traiter avec les délégués et composée de:

Son Excellence Server Pacha, Président du Conseil d'Etat, président de la commission;

Son Excellence Munir Bey, Ministre des Finances;

Son Excellence Ohannès Tchamitch, Président de la Cour des Comptes;

Son Excellence Wettendorff Bey, Sous-Secrétaire d'Etat au Ministère Impérial des Finances;

Gescher Effendi, Conseiller du Ministère des Affaires Etrangères; et

Bertram Effendi, Mustéchar de la Direction générale des Douanes.

Les délibérations de ladite commission, commencées le 1[er] septembre et continuées pendant les mois de septembre, d'octobre, de novembre et de décembre de l'année courante, ayant eu pour résultat une entente complète entre les commissaires Impériaux et MM. les délégués, entente constatée par les procès-verbaux de la commission portant la signature des deux parties, le Gouvernement, sur la base de cette entente, décrète par les présentes ce qui suit:

Article 1[er].

(*a.*) Les soldes en capital restant dus sur chacun des emprunts énumérés dans le tableau ci-joint, augmenté du montant nominal des titres provisoires—dits titres Ramazan—délivrés pour la moitié des obligations sorties au tirage, conformément au décret du 6 octobre, 1875 (30 Ramazan, 1292), sont réduits aux taux moyens d'émission indiqués ci-après:

		Pour cent.
Emprunt	1858	à 85
„	1860	57.375
„	1862	68
„	1863—64	69.62216
„	1865	64.775
„	1869	56.725
„	1872	98.50
„	1873	50.235
Dette générale		45.84
Lots turcs		41.00545

(*b*.) Le capital réduit à ces taux est majoré en principe de 10 pour cent, en représentation des intérêts desdits emprunts et des primes de l'Emprunt des Chemins de Fer de la Turquie d'Europe—lots turcs—échus et non payés jusqu'à la fin de l'année 1881, ainsi que des titres provisoires, dits Ramazan, émis pour la moitié des intérêts et des primes au décret du 6 octobre, 1875.

(*c*.) Le montant pour lequel les intérêts et primes arriérés participent à cette majoration de 10 pour cent, non compris les certificats Ramazan pour intérêts et primes dont le règlement fait l'objet de l'article 2 ci-après, est ajouté au capital de chaque emprunt réduit, conformément au paragraphe (*a*), ce qui élève les taux de réduction de chaque emprunt aux taux définitifs arrondis, indiqués ci-dessous:

	Pour cent.
Emprunt 1858	à 93.15
„ 1860	62.90
„ 1862	74.50
„ 1863—64	76.30
„ 1865	71
„ 1869	62.40
„ 1872	107.75
„ 1873	55.25
Dette générale	50.25
Lots turcs	45.09

(*d*.) En conséquence, les obligations des emprunts énumérés plus haut, munies des coupons impayés d'avril 1876 à mars 1882, inclusivement, seront réduites à un montant correspondant aux taux indiqués pour chacun des emprunts, au paragraphe (*c*).

Les certificats provisoires, dits Ramazan, délivrés pour la moitié des obligations sorties au tirage, conformément au décret du 6 octobre, 1875, et mentionnés au paragraphe (*a*) ci-dessus, seront, à l'exception de ceux des lots turcs sortis avec primes, convertis aux taux indiqués au paragraphe (*c*), en titres des emprunts auxquels ils appartiennent.

N.B.—La somme de 31,508,000*l*. indiquée au tableau ci-joint, comme solde en capital de l'Emprunt des Chemins de Fer de la Turquie d'Europe—(lots turcs)—comprend le capital nominal, soit 400 fr. par obligation, des obligations sorties au tirage avec primes et non payées. La différence entre le montant nominal de ce capital et le montant pour lequel ces obligations sont sorties au tirage est comprise dans la somme allouée aux intérêts arriérés.

Article 2.

Le montant pour lequel les certificats provisoires, Ramazan, émis pour la moitié des intérêts et des primes—capital nominal déduit—conformément au décret du 6 octobre, 1875, participent à la majoration de 10 pour cent mentionnée au paragraphe (*b*) de l'article précédent, leur sera réglé par la conversion en obligations des emprunts auxquels ils appartiennent, le montant nominal de ces certificats étant réduit dans la proportion adoptée pour le total des intérêts, et étant calculé sur les

chiffres énumérés à la colonne 11 du tableau ci-joint, ce qui donne les taux suivants:

Certificats d'intérêts pour les emprunts:

	Pour cent.
1858	23.26
1860	15.29
1862	18.12
1863—64	18.553
1865	17.26
1872	17.20
Dette générale	14.78
Lots turcs	19.18

Toutefois, les certificats délivrés pour des coupons de l'emprunt 1872 seront convertis aux taux indiqués ci-dessus en obligations de l'un des emprunts du Groupe II, dont il sera parlé plus loin (article 12).

Article 3.

Ainsi le montant réduit de la Dette ottomane, à la suite du présent arrangement, se composera

(i.) Du montant des obligations de chaque emprunt encore en circulation, réduit aux taux indiqués au paragraphe (*c*) de l'article 1er.

(ii.) Du montant des obligations données en échange des certificats provisoires émis pour la moitié d'obligations (paragraphe (*d*) de l'article 1er).

(iii.) Du montant des obligations données en échange des certificats provisoires émis pour la moitié d'intérêts ou de primes (article 2).

Le tableau ci-annexé, qui fait partie du présent iradé, donne tous les chiffres relatifs à la réduction et au règlement de la Dette ottomane.

Toutefois, les chiffres indiqués dans ce tableau, à l'exception des taux mentionnés à l'article 1er, ne pourront pas préjudicier, en cas d'erreur ou d'omission survenus dans les calculs, à la fixation définitive des chiffres composant la Dette, le Conseil d'Administration dont il est parlé ci-après étant chargé, après entente avec le Gouvernement, de rectifier les erreurs qui auraient pu se produire.

Article 4.

Tous les titres des emprunts énumérés dans le tableau ci-annexé ainsi que tous les certificats dits Ramazan, devront être enregistrés.

L'opération d'enregistrement sera confiée

A Londres, au „Council of Foreign Bondholders";

A Amsterdam, au Conseil de la Bourse, ou à l'établissement indiqué par lui;

A Paris, Vienne et Berlin, au syndicat des établissements financiers qui ont adhéré à la communication du Gouvernement Impérial ottoman du 23 octobre, 1880, mentionnée plus haut;

A Rome, à la Chambre de Commerce de Rome; et

A Constantinople, à la Banque Impériale ottomane.

Il sera pourvu aux frais de l'opération par une commission de $^1/_8$ pour cent, calculée sur le capital réduit de la totalité des titres et certi-

ficats enregistrés. Ladite commission sera payée par le Conseil d'Administration (article 15) sur les revenus concédés aux porteurs pour le service de la Dette publique.

A la suite de chaque enregistrement de titres, le porteur recevra une quantité de titres correspondant au montant du capital réduit.

Pour les fractions, on délivrera aux porteurs des certificats provisoires portant un intérêt, qui sera payable au moment de leur conversion en titres définitifs.

Le Conseil d'Administration aura le droit d'acheter et de vendre des fractions des titres, afin de faciliter l'enregistrement des titres en sommes rondes.

La portion des titres représentant la différence entre le capital réduit de chaque emprunt et le capital nominal sera retirée par le conseil et restera déposée dans la caisse du conseil, sous la surveillance du Gouvernement. Elle sera annulée au fur et à mesure que les titres participeront à l'amortissement.

Quant aux titres Ramazan donnés en échange de titres sortis aux tirages des différents emprunts, il y est pourvu par l'article 1er, paragraphe (*d*).

Les titres sortis aux tirages sous les contrats originaux pendant la suspension des paiements du Gouvernement ottoman seront traités sur le même pied que les titres non sortis, et les numéros seront replacés dans les roues, sauf, toutefois, les lots turcs dont la situation fait l'objet d'un règlement spécial (article 13).

Les titres Ramazan donnés en échange de coupons échus seront convertis en titres des emprunts auxquels ils appartiennent aux taux correspondant à la réduction établie dans l'article 3, colonne 13 du tableau ci-annexé.*)

Les coupons arriérés devront être remis, et ceux qui ne seraient pas présentés devront être remplacés, selon les règlements qui seront publiés par le Conseil d'Administration, or subir pour chaque coupon manquant une diminution proportionnelle sur les chiffres fixés (article 1er, paragraphe (*c*), colonne 14 dudit tableau).

Il sera pourvu, au moyen des titres retirés de chaque emprunt, à l'échange des titres Ramazan.

Tout nouveau tirage, en application des contrats originaux, est suspendu.

Par exception, les titres de l'emprunt de 1872 (bons du Trésor) seront simplement estampillés aux taux déterminés dans l'article 1er, paragraphe (*c*), colonne 19 du tableau ci-annexé. Les titres Ramazan de cet emprunt (article 2), donnés en échange de coupons arriérés, seront convertis en titres du Groupe II (article 12), aux taux correspondant à la réduction établie à l'article 2, colonne 12 du tableau annexé.

Article 5.

L'enregistrement des titres aura lieu jusqu'au 1er (13) février, 1885.

Passé ce délai, les coupons échus seront périmés, et les provisions qui auront été faites en leur faveur jusqu'à cette date rentreront dans

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*) Non imprimé.

les fonds disponibles pour l'intérêt et l'amortissement semestriels, dès le 1er (13) mars, 1885.

Après le 1er (13) février, 1885, l'enregistrement des titres n'aura lieu qu'en application des règlements établis par le Conseil d'Administration, conformément aux principes susénoncés, et tous les coupons payables avant la date d'enregistrement seront prescrits.

Tous les titres Ramazan qui n'auront pas été enregistrés dans le délai de six ans, à partir de ce jour, seront prescrits.

Seront également prescrits tous les coupons qui n'auront pas été encaissés dans le même délai de six ans, à partir du terme de leur échéance.

Tous les titres amortis qui n'auront pas été encaissés pendant une durée de trente ans seront frappés de prescription et leurs inscriptions seront annulées. L'intérêt sur les titres sortis aux tirages cessera de courir pour les porteurs. Les titres amortis et remboursés seront annulés par les soins du Conseil d'Administration.

Ces dispositions seront applicables aux titres et coupons amortis des obligations privilégiés, prévues ci-après à l'article 10.

Article 6.

Le Conseil d'Administration dressera et portera à la connaissance des intéressés tous les règlements concernant la liquidation. Ces règlements seront obligatoires pour les porteurs.

Article 7.

Le Conseil d'Administration aura le droit, d'accord avec le Gouvernement Impérial ottoman, de procéder à la conversion de la totalité ou d'une partie de la dette fixée à l'article 3.

Cependant, cette opération est subordonnée

En Angleterre, au consentement d'une majorité représentant les trois quarts de la valeur de chaque emprunt à convertir, ou, à son défaut, au consentement de la majorité simple desdits porteurs, avec la sanction du „Council of Foreign Bondholders".

En France, en Allemagne et en Autriche-Hongrie, au consentement des syndicats des établissements financiers qui ont adhéré à la communication du Gouvernement Impérial du 23 octobre, 1880, et, s'il y a lieu, à la sanction de la majorité des porteurs donnée en assemblée publique.

Article 8.

Pour le service de la Dette déterminée par l'article 3 le Gouvernement cède, par les présentes, d'une manière absolue et irrévocable, à partir du 1er (13) janvier, 1882, et jusqu'à l'extinction complète de ladite Dette:

1. Les revenus des monopoles et contributions indirectes faisant l'objet de la convention du 10 (22) novembre, 1879, qui est résiliée à partir du 1er (13) janvier, 1882, en vertu de la convention annexée au présent Décret, soit:

(*a.*) Des monopoles du tabac et du sel, produits ou consommés dans les vilayets de l'Empire, énumérés dans la liste annexée à la convention du 10 (22) novembre, 1879, et jointe à ce décret, annexe 2, non compris les cigares, les tabacs à priser, les tabacs à chiquer, et le tombéki importé, et sauf la dîme et les droits de douanes du tabac.

(*b.*) De l'impôt du timbre (varakaï-sahiha);

De l'impôt mirié et rouhsatié des spiritueux des vilayets de l'Empire, énumérés à ladite liste, sauf les droits de douane perçus sur les spiritueux;

De l'impôt de pêche de Constantinople et de sa banlieue, suivant détail figurant dans la liste y relative; et

De la dîme des soies de la banlieue de Constantinople, ainsi que d'Andrinople, de Brousse et de Samsoun, suivant détail consigné dans la liste y relative.

2. La dîme des soies:

De Tokat, dépendance de la direction de Samsoun.

De Cavalla, Yénidjé, Eskidjé, et Dédéaghatch, dépendances de la direction d'Andrinople.

De Sarouhan, dépendance de la direction de Sarouhan.

De Yénikeuy de Chile, dépendance de la direction de Constantinople.

De Cartal, Guebzé, et Daridja, dépendances de la direction d'Ismidt.

Ainsi que l'impôt de pêche:

De Banados, dépendance de la direction de Rodosto.

De Gallipoli, dépendance de la direction de Gallipoli.

De Yalova, dépendance de la direction de Karamoussal.

De Seyki, Moudania, Guemlek, Courchoumjou, Armoudiou, Capou Dagh, Marmara, Pacha-Liman, Erdek, Panderma, et Lac Manias, dépendances de la direction de Brousse.

3. L'excédent des recettes des douanes résultant de la modification du taux des taxes, en cas de révision des traités de commerce.

4. L'excédent de revenus qui devra résulter de l'application générale de la Loi sur les Patentes, comparativement aux recettes actuelles de l'impôt de témettu.

Quant au moyen d'assurer aux porteurs de la Dette les revenus mentionnés aux paragraphes 3 et 4, il fera l'objet de dispositions spéciales.

5. Le tribut de la principauté de Bulgarie:

Tant que ce tribut n'aura pas été fixé par les représentants des Puissances signataires du Traité de Berlin, le Gouvernement le remplacera, à partir du 1er (13) janvier, 1882, par une somme annuelle de £ T. 100,000 à prélever sur la dîme des tabacs.

Une fois ledit tribut fixé, si la Sublime Porte croyait devoir l'affecter en totalité ou en partie, à une autre destination, la somme dont elle aurait ainsi disposé sera remplacée par une somme égale à prélever sur la dîme des tabacs, et au cas où celle-ci n'y suffirait pas sur un autre revenu tout aussi sûr.

6. L'excédent des revenus de l'Ile de Chypre:

Dans le cas où l'excédent des revenus de l'Ile de Chypre ne serait pas à la disposition du Gouvernement Impérial, il sera remplacé, à partir du 1er (13) janvier, 1882, par une somme annuelle de £ T. 130,000.

Le Conseil d'Administration (article 15) aura le droit d'appliquer l'excédent de la dîme des tabacs, après prélèvement des £ T. 100,000 destinées à remplacer le tribut de la principauté de Bulgarie, au paiement desdites £ T. 130,000 destinées à remplacer l'excédent de l'Ile de Chypre; pour le montant resté non couvert sur cette somme, le Ministère des Finances remettra au conseil, chaque semestre, des traites sur la Direction générale des Douanes.

7. La redevance de la Roumélie orientale, fixée actuellement à £ T. 240,000 plus les arriérés à partir du 1er (13) mars, 1880, les augmentations ultérieures dont cette redevance est susceptible, aux termes de l'article 5 du Statut organique, et la somme de £ T. 5,000 représentant le produit net annuel des douanes de ladite province. Le Conseil d'Administration (article 15) recevra lesdites sommes par les soins de la Banque Impériale ottomane, dans les caisses de laquelle elle doivent être déposées.

En cas de retard dans les versements aux échéances arrêtées, le Gouvernement Impérial fera toute diligence pour rétablir l'exécution des engagements de ladite province.

8. Le produit des droits sur le tombéki, jusqu'à concurrence de £ T. 50,000.

Pour assurer au Conseil d'Administration la perception de cette somme, le Ministère des Finances donnera, chaque semestre, au conseil, des traites sur la Direction générale des Douanes.

9. Toutes les sommes revenant au Gouvernement Impérial, comme parts contributives de la Serbie, du Monténégro, de la Bulgarie et de la Grèce, sur la dette mentionnée à l'article 3, d'après les dispositions du Traité de Berlin*) et de l'article 10 de la Convention de Constantinople du 24 mai 1881.**)

Article 9.

Les revenus énoncés aux paragraphes 1, 2 et 8, ainsi que la dîme des tabacs, mentionnée aux paragraphes 5 et 6 de l'article précédent, seront exploités conformément aux lois et règlements actuellement existants, et les revenus mentionnés aux paragraphes 3 et 4 (excédent des douanes et patentes) suivant les dispositions à édicter à cet égard.

Toutefois, le Conseil d'Administration aura la faculté de décider toutes les modifications et améliorations qui pourront être introduites dans le système actuel des monopoles ou contributions énoncés Nos. 1 et 2, ou de la dîme des tabacs mentionnée Nos. 5 et 6 de l'article précédent, dans le cas où ladite dîme serait affectée au service de la Dette, suivant les

*) V. N. R. G. 2. s. III, p. 449. **) V. N. R. G. 2. s. VI, p. 753.

dispositions y relatives du même article, sans sortir des limites des lois et règlements existants, et sans imposer de charges nouvelles aux sujets ottomans.

Pour toutes autres modifications ou améliorations à introduire dans le système ou dans les taxes desdits monopoles ou contributions, ou des autres revenus concédés aux porteurs, excepté les revenus énoncés aux paragraphes 3, 4 et 8 de l'article précédent (excédent de douanes, patentes et tombéki), il devra intervenir un accord préalable entre le Gouvernement Impérial et le conseil. De même, les tarifs et règlements relatifs aux revenus concédés, à l'exception toutefois des revenus énoncés aux paragraphes 3, 4 et 8 de l'article précédent, ne pourront être modifiés que de commun accord entre le Gouvernement et le conseil.

Le Gouvernement s'engage à faire connaître au conseil, dans le délai de six mois, au plus tard, son acceptation ou refus des propositions qui lui auront été soumises à ce sujet par le conseil.

Le Gouvernement promulguera à bref délai sa décision sur les propositions dont il a été saisi par le Conseil actuel des six Contributions Indirectes au sujet du timbre.

Quant aux monopoles du tabac et du sel, le Gouvernement ne s'opposera pas, en principe, à ce qu'il soit pris des arrangements pour exploiter les tabacs et le sel par voie de régie, sauf, quant aux détails à promulguer dans ce but, l'accord préalable mentionné plus haut.

Pour ce qui est du tabac, les bénéfices pouvant résulter de son exploitation, par voie de régie, seront répartis entre le Gouvernement, les porteurs et la Société d'Exploitation, dans des conditions à déterminer entre les intéressés.

Si le Gouvernement voulait abolir les dîmes, le droit sur la pêche, ou le droit sur les spiritueux, concédés aux porteurs, il en aurait la faculté à condition de remplacer les droits à abolir par un autre revenu équivalent, et avec l'adhésion de la majorité absolue des membres du conseil. L'augmentation éventuelle des revenus à abolir sera prise en considération dans la fixation de l'équivalent.

Il est bien entendu que la perception et l'administration des revenus équivalents doivent être confiés au conseil, comme il est dit plus bas.

Article 10.

Le produit net des revenus indiqués à l'article 8 sera consacré intégralement le 1er (13) septembre et le 1er (13) mars de chaque année, à partir du 1er (13) janvier, 1882, au paiement des intérêts et de l'amortissement de la Dette.

Toutefois, on prélèvera chaque année, par privilège, sur la portion de ce produit, provenant des six Contributions Indirectes, une somme de £ T. 590,000 pour assurer, jusqu'à leur extinction complète le service des obligations privilégiées 5 pour cent, créées en représentation d'un montant maximum de £ T. 8,170,000, en exécution de la convention ci-annexée

intervenue entre le Gouvernement Impérial et les signataires de la convention du 10 (22) novembre, 1879.

Le premier paiement se fera le 1er (13) septembre, 1882, de sorte que la somme à répartir à cette date représentera huit mois d'exercice.

Les intérêts et l'amortissement seront calculés sur la totalité des titres enregistrés.

L'application des sommes revenant aux lots turcs fonctionnera conformément aux dispositions de l'article 13.

Les coupons échus et les titres sortis au tirage seront payables, à l'étranger et à Constantinople, dans les caisses des établissements qui avaient été chargés de ce service à l'origine. Le Conseil d'Administration prendra toutes les dispositions nécessaires pour assurer à l'étranger la remise des revenus encaissés en vue du paiement des coupons et des titres amortis. Les envois y relatifs se feront par les soins de la Banque Impériale ottomane, qui reste chargée du service de la Dette ottomane. Le conseil s'entendra avec lesdits établissements sur le montant de la commission qui leur sera allouée.

Le service des obligations privilégiées sera fait par la Banque Impériale ottomane, qui prélèvera une commission de ½ pour cent sur le montant des coupons et des titres amortis.

Les risques de change résultant de la nécessité de remettre à l'étranger les fonds nécessaires pour ledit service, seront à la charge du Conseil d'Administration, sauf les accords à intervenir ultérieurement entre le conseil et la banque.

Le conseil fera tirer de nouvelles feuilles de coupons en cas de nécessité.

Il aura le droit de placer provisoirement à intérêt les produits encaissés jusqu'à ce qu'ils soient exigibles pour les échéances de l'intérêt et de l'amortissement.

Il déterminera dans les délais voulus, conformément aux principes établis ci-dessus, les taux d'intérêt et d'amortissement payables chaque semestre, de façon à ce que les échéances du 1er (13) septembre et du 1er (13) mars soient toujours ponctuellement satisfaites.

Il aura le droit de réserver sur les sommes disponibles pour le service de l'intérêt les fractions nécessaires pour égaliser le montant de l'intérêt dans les semestres suivants.

Article 11.

Il sera attribué chaque année au service de l'intérêt quatre cinquièmes du produit net des revenus concédés aux porteurs, non compris les parts contributives de la Serbie, du Monténégro, de la Bulgarie et de la Grèce, et déduction faite des sommes représentant intérêt sur des titres amortis.

Mais, sur le produit net desdits revenus, on prélèvera d'abord la somme nécessaire pour acquitter 1 pour cent d'intérêt, calculé sur le capital réduit (colonne 21 du tableau), conformément à l'article 10.

L'intérêt ne pourra jamais dépasser 4 pour cent dudit capital. Si la somme disponible pour le service des intérêts, divisée par le montant représentant $^1/_4$ pour cent dudit capital réduit de la Dette, vient à laisser une fraction, cette fraction sera réservée au service des intérêts du semestre suivant.

L'intérêt sera payé sur les coupons échus de tous les emprunts indistinctement, au prorata des revenus disponibles.

Article 12.

Il sera attribué chaque année à l'amortissement un cinquième du produit net des revenus concédés aux porteurs, non compris les parts contributives de la Serbie, du Monténégro, de la Bulgarie et de la Grèce, mais accru du montant représentant l'intérêt sur les titres amortis, ainsi qu'il a été dit à l'article précédent.

Toutefois, si le produit net desdits revenus ne dépasse pas 1 pour cent calculé sur le capital réduit (colonne 21 du tableau ci-joint), conformément à l'article 10, la différence nécessaire sera prélevée sur le cinquième applicable à l'amortissement.

L'amortissement à servir sur le produit des revenus susmentionnés ne pourra dépasser 1 pour cent dudit capital réduit.

Si le produit desdits revenus dépasse 4 pour cent dudit capital pour intérêts et 1 pour cent du même capital pour amortissement, soit en tout 5 pour cent, le surplus sera versé au Trésor.

Si la somme disponible pour l'amortissement laisse une fraction ne permettant pas d'amortir un chiffre rond d'obligations, cette fraction sera réservée pour être appliquée au service de l'amortissement du semestre suivant.

Pour le service de l'amortissement provenant du cinquième du produit des revenus susmentionnés, augmenté de l'intérêt des titres amortis, les emprunts seront réunis en groupes constitués comme suit:

Groupe I. Emprunts de 1858 et 1862.
„ II. „ 1860, 1863—64 et 1872.
„ III. „ 1865, 1869 et 1873.
„ IV. Dette générale et lots turcs.

Après paiement de 1 pour cent du susdit capital réduit pour intérêts, le surplus, jusqu'à concurrence de $^1/_4$ pour cent dudit capital réduit, sera appliqué à l'amortissement du Groupe I; après lui, du Groupe II; après ce dernier, du Groupe III; puis du Groupe IV.

Si la somme disponible annuellement pour l'amortissement dépasse $^1/_4$ pour cent dudit capital réduit, le surplus, jusqu'à concurrence de $^1/_2$ pour cent dudit capital, sera appliqué à l'amortissement du Groupe II, à moins que ce Groupe II ne soit déjà en possession du premier $^1/_4$ ci-dessus mentionné. Dans ce cas, la somme dépassant $^1/_4$ pour cent jusqu'à $^1/_2$ pour cent du capital, passe au Groupe III, à moins que le Groupe III ne soit déjà en possession du premier $^1/_4$ pour cent. Dans ce cas, la somme dépassant $^1/_4$ pour cent jusqu'à $^1/_2$ pour cent passe au Groupe IV.

Si la somme disponible pour l'amortissement dépasse $^1/_2$ pour cent du capital réduit, l'excédent, jusqu'à concurrence de $^3/_4$ pour cent de ce capital, sera appliqué à l'amortissement du Groupe III, à moins que ce Groupe III ne soit déjà en possession d'une cote d'amortissement de $^1/_4$ pour cent; dans ce cas ce troisième $^1/_4$ passe au Groupe IV à moins que ce Groupe IV ne soit déjà en possession de $^1/_4$; auquel cas, la somme dépassant $^1/_2$ pour cent jusqu'à $^3/_4$ pour cent dudit capital, sera partagée, par portions égales, entre les Groupes III et IV.

Si la somme disponible pour l'amortissement dépasse $^3/_4$ pour cent dudit capital, le surplus va au Groupe IV, à moins que ce Groupe IV ne soit déjà en possession de la cote d'amortissement de $^1/_4$ pour cent; auquel cas la somme dépassant $^3/_4$ pour cent est partagée par portions égales entre les groupes qui restent à éteindre.

Après l'extinction des trois premiers groupes, la somme disponible pour l'amortissement fonctionnera au profit du quatrième.

En sus dudit cinquième du produit des revenus susmentionnés, seront appliquées au service de l'amortissement: les sommes pour lesquelles la Serbie, le Monténégro, la Bulgarie et la Grèce contribueront au service de la Dette, énoncées à l'article 3.

Ces sommes, soit en capital, soit en intérêt, seront appliquées à l'amortissement de tous les emprunts, au prorata de leur montant résultant de l'enregistrement des titres, et si la conversion de la Dette s'accomplit ultérieurement, elles seront appliquées au rachat d'une partie de la Dette convertie, tous les titres étant traités sur le même pied.

Toute somme représentant intérêt sur des titres amortis, augmentera l'amortissement. L'amortissement se fera toujours par achat au tirage, chaque semestre, d'après la décision du Conseil d'Administration.

Les remboursements des titres sortis au tirage auront lieu à partir de l'échéance du semestre à commencer du 1er (13) septembre, 1882.

L'amortissement des titres, qu'il soit opéré par achats ou par tirages, aura lieu à des taux qui ne dépasseront pas les chiffres suivants:

(*a.*) 66·66 pour cent du capital, quand l'intérêt servi sera de 1 pour cent;

(*b.*) 75 pour cent du capital, quand l'intérêt, supérieur à 1 pour cent, sera inférieur à 3 pour cent;

(*c.*) 100 pour cent du capital, quand l'intérêt servi s'élèvera à 3 pour cent, ou plus.

Article 13.

Toutes sommes revenant à l'emprunt à primes des chemins de fer de la Turquie d'Europe (lots turcs) dans les revenus et autres ressources concédés aux porteurs, tant en intérêt qu'en amortissement, seront employées comme il suit:

(*a.*) En premier lieu, afin d'assurer aux détenteurs des lots turcs sortis au tirage jusqu'à la fin de l'année 1881, mais non payés, une indemnité partielle, on prélèvera sur lesdites sommes un montant de 25 pour cent.

Ces 25 pour cent seront employés à rembourser les lots turcs sortis au tirage, au prorata de leur montant, jusqu'à ce qu'ils aient reçu 20 pour cent du montant établi au tirage.

Les paiements partiels se feront contre production des lots respectifs, sur lesquels le paiement partiel sera marqué au moyen d'une estampille.

Au dernier paiement effectué pour compléter les 20 pour cent, les titres seront retirés.

(*b.*) Les tirages des titres non sortis et le paiement des primes seront continués en stricte conformité avec le plan primitif adopté pour cet emprunt, autant que les sommes qui lui reviendront le permettront.

Les titres sortis au tirage seront payés dans le délai d'un mois.

(*c.*) Le paiement des intérêts de cet emprunt est suspendu et ne sera repris que lors et tant qu'il restera un surplus sur la somme nécessaire pour faire face au service intégral des primes.

Les intérêts, dans ce cas, seront payables avec les titres sortis au tirage.

Ledit surplus sera employé à rembourser les coupons sur les titres non sortis, et s'il y a quelque excédent, il sera consacré à augmenter le nombre des titres appelés a sortir avec les primes les moins élevées.

(*d.*) L'arrangement avec les porteurs devant entrer en vigueur à partir du 1er (13) janvier, année 1882, commencera à fonctionner en ce qui concerne les tirages, conformément au paragraphe (*b*) pendant ladite année.

(*e.*) Le Conseil d'Administration fixera, en conformité du susdit principe, les époques auxquelles les lots sortis pendant une année seront payés, ainsi que le montant qui leur sera alloué.

(*f.*) Les dispositions générales du présent décret auront également force pour cet emprunt, en tant qu'elles ne sont pas modifiées par les paragraphes ci-dessus.

Article 14.

Les reliquats provenant des deux exercices pendant lesquels a été appliquée la convention du 10 (22) novembre, 1879, soit jusqu'au 1er (13) janvier, 1882, seront affectés au remboursement des dépenses faites dans l'intérêt des porteurs, depuis l'iradé Impérial du mois d'octobre 1875, par les comités et par les délégués qui ont participé au présent arrangement.

Le Conseil d'Administration décidera si les dépenses dont la restitution sera demandée doivent être reconnues comme nécessaires ou utiles au point de vue de l'intérêt des porteurs.

Les sommes restées disponibles sur lesdits reliquats seront utilisées par le Conseil d'Administration, pour égaliser le service de l'intérêt et de l'amortissement pendant les quatre premiers semestres et pour faire face à des dépenses extraordinaires.

Article 15.

Pour représenter les porteurs et pour pourvoir à leurs intérêts, il est établi un conseil d'administration.

Le siège de ce conseil est fixé à Constantinople.

Ledit conseil sera composé comme il est dit ci-après:

Un membre représentant les porteurs anglais, qui représente aussi les porteurs néerlandais, et qui est nommé par le „Council of Foreign Bondholders“ à Londres, à son défaut, par le gouverneur de la Banque d'Angleterre, ou à son défaut par une résolution adoptée en assemblée publique (meeting) des porteurs anglais et néerlandais, à Londres;

Un membre représentant les porteurs français,

Un membre représentant les porteurs allemands,

Un membre représentant les porteurs austro-hongrois,

qui sont nommés par les syndicats des établissements financiers de Paris, Berlin et Vienne, ayant adhéré à la communication du Gouvernement Impérial ottoman du 23 octobre, 1880, et, s'il y a lieu, leur choix sera approuvé par une assemblée générale des porteurs français, allemands et austro-hongrois, dans chacune des trois capitales ci-dessus désignées;

Un membre représentant les porteurs italiens, qui est nommé par la Chambre du Commerce de Rome, constituée en syndicat des chambres de commerce du royaume, et, s'il y a lieu, son choix sera approuvé par une assemblée générale des porteurs italiens, à Rome;

Un membre représentant les porteurs ottomans, qui est nommé par une assemblée générale de ces derniers, réunis à Constantinople, sur la convocation du préfet de la ville;

Un membre représentant les porteurs des obligations prévues dans la convention ci-annexée qui sera nommé par la Banque Impériale ottomane, ou, à son défaut, par une résolution adoptée en assemblée publique desdits porteurs à Constantinople.

Ce dernier membre siégera dans le conseil seulement jusqu'à l'extinction complète desdites obligations.

Il sera pourvu, suivant les mêmes formalités, aux vacances qui se produiraient au sein du conseil.

Les nominations des membres représentant les porteurs anglais, néerlandais, français, allemands, austro-hongrois et italiens seront notifiées aux représentants de la Sublime Porte à Londres, Paris, Berlin, Vienne et Rome. La nomination du membre ottoman, ainsi que celle du membre représentant les porteurs des obligations prévues dans la convention ci-jointe, seront notifiées au Ministère des Finances de l'Empire ottoman.

Tout employé au service du Gouvernement Impérial ottoman, sujet étranger ou ottoman, qui serait nommé membre du conseil, sera tenu de se démettre de ses fonctions publiques pour toute la durée de son mandat.

Si les autorités à qui appartient en Angleterre, en Allemagne, en Autriche-Hongrie, en France et en Italie, la nomination du conseil, y appellent un membre remplissant en ce moment une mission diplomatique, consulaire ou militaire dans l'Empire ottoman, ce membre devra également se démettre de ses fonctions. Il sera traité, au point de vue des appointements, sur le même pied que les membres du conseil venant de l'étranger.

Les membres du conseil seront nommés pour cinq ans, et ils siégeront jusqu'à l'installation du nouveau conseil.

Ils pourront être réélus à l'expiration de leur mandat.

Si un membre du conseil venait à manquer à ses devoirs, sa révocation sera prononcée par les autorités de qui il tient son mandat, mais suivant le cas, sur la proposition du conseil.

Les traitements des membres du conseil sont fixés ainsi qu'il suit:

2,000*l.* à chacun des représentants des porteurs étrangers, venant de l'étranger;

1,200*l.* à chacun des représentants des porteurs étrangers ou des porteurs ottomans, qui serait choisi parmi les résidents de l'Empire ottoman;

1,200*l.* au Commissaire Impérial ottoman (article 18).

Il n'est pas alloué de traitement au membre représentant les porteurs des obligations prévues dans la convention ci-annexée; mais il lui est attribué une somme annuelle fixe de 500*l.*, à titre de jetons de présence.

Ces appointements commenceront à courir à partir de la date d'arrivée de chaque membre du conseil à Constantinople.

Les assemblées générales qui pourront concourir, selon les prévisions ci-dessus, à la nomination du premier conseil, seront convoquées, dans chaque pays, par le délégué qui représente actuellement les porteurs dudit pays.

Lorsqu'il s'agira de pourvoir à une vacance dans le conseil, l'assemblée des porteurs sera convoquée par le Conseil d'Administration.

Dans l'un et l'autre cas, les assemblées seront tenues, conformément aux formes prescrites, par l'autorité qui les aura convoquées, et les résolutions de ces assemblées seront limitées à l'objet qui en aura motivé la convocation.

En égard au nombre et à l'importance beaucoup plus considérable des titres ottomans détenus en Angleterre et en France, la présidence annuelle du conseil sera dévolue, alternativement, pendant une période de cinq années, et d'après l'ordre établi par le premier choix du conseil, aux représentants anglais et français.

Dans le cas où cette situation viendrait à se modifier essentiellement après une première période de cinq ans le conseil élira son président.

En cas d'absence ou d'empêchement temporaire du président, et pendant la durée de cette absence et de cet empêchement, la présidence sera exercée par le doyen du conseil.

Les membres du conseil auront chacun une voix. Les décisions seront prises à la majorité des voix. En cas de partage, le président aura voix prépondérante.

La première réunion du conseil aura lieu immédiatement après la nomination de ses membres.

Deux mois après la publication du présent décret, la présence de trois membres, régulièrement nommés, sera suffisante pour permettre au conseil d'entrer en fonctions et d'expédier les affaires.

Lorsque le conseil se trouvera au complet, la présence de trois membres au moins sera nécessaire pour l'expédition régulière des affaires.

Pendant la durée des vacances causées par des révocations de membres du conseil, ou par d'autres causes, le conseil conservera le droit de prendre toutes décisions, en conformité avec ses pouvoirs constitutifs.

Le conseil ne cessera de fonctionner qu'à l'extinction complète des emprunts auxquels s'applique le présent décret.

Article 16.

Le Conseil d'Administration aura l'administration, la perception et l'encaissement directs, pour le compte des porteurs et par le moyen des agents relevant de son autorité, des revenus et autres ressources énumérés à l'article 8, paragraphes 1, 2, 5, 6, 7 et 9, y compris la dîme des tabacs, dans les cas prévus aux paragraphes 5 et 6 dudit article, sauf toutefois, quant à ladite dîme, l'obligation d'en rendre compte au Gouvernement et d'en verser annuellement au Trésor l'excédent au-dessus des £T. 100,000 qui doivent remplacer le tribut de la Bulgarie, et éventuellement des £T. 130,000 qui remplaceraient l'excédent des revenus de l'île de Chypre.

Il aura également l'encaissement des £T. 50,000 concédées sur le produit des droits du tombéki (paragraphe 8 de l'article 8) et des revenus mentionnés aux paragraphes 3 et 4 dudit article.

Le montant des six Contributions Indirectes sera perçu en espèces conformément au règlement en vigueur pour les caisses de l'Etat („meskukiat nizim namessi") promulgué en date du . . . .

Il réalisera la valeur des revenus et autres ressources concédés, et en appliquera le montant intégral, déduction faite des frais d'administration et de recouvrement, au service des intérêts et de l'amortissement des obligations prévues dans la convention ci-annexée et de la Dette établie par l'article 3, conformément à la répartition adoptée.

Le conseil aura le droit d'affermer ou de donner à bail à des tiers l'un ou l'autre des revenus concédés; mais, dans ce cas, il restera directement responsable envers le Gouvernement Impérial.

Le conseil nommera un directeur général de l'administration, qui aura, sous l'autorité du conseil, la gestion des affaires. Il représentera le conseil vis-à-vis des tiers pour l'exécution des décisions, et exercera au besoin toutes les actions judiciaires, sauf à se faire délivrer les autorisations nécessaires pour comparaître devant les tribunaux ou autres juridictions, soit comme demandeur, soit comme défendeur, au nom de l'Administration des Revenus concédés.

De même, le conseil nommera et révoquera les autres employés de l'Administration des Revenus concédés.

Lesdits employés seront considérés comme fonctionnaires de l'Etat, dans l'exercice de leurs fonctions. Le Gouvernement devra prendre en considération bienveillante toute recommendation du conseil quant à leur rang, avancement et promotion dans la hiérarchie ottomane.

Quant aux impôts, contributions et taxes, l'Administration des Revenus concédés et de ses employés sera traitée sur le même pied que les administrations de l'Etat et de ses employés.

Quant aux employés de l'Etat qui entreront au service du Conseil d'Administration, il sera statué sur leur situation par un règlement spécial. Les dispositions de ce règlement seront également applicables aux employés de l'Etat qui se trouvent déjà au service de l'Administration des six Contributions. Il reste entendu que ce règlement ne saurait porter atteinte au droit du conseil de nommer et de révoquer tous les fonctionnaires de cette administration, droit qui est déjà exercé en fait par l'administration actuelle.

Quant aux indemnités et autres débours extraordinaires prévus dans l'article 13 de la convention du 22 novembre, 1879, ils passeront à la charge du conseil.

Le Gouvernement donnera au conseil, dans l'exercice de son administration, toutes les assistances générales compatibles avec les institutions publiques existantes, et, pour la répression de la contrebande, il s'engage à appliquer contre elle les pénalités édictées par les lois.

En cas de retard dans les versements de la redevance de la Roumélie orientale, le conseil aura le droit de s'adresser à la Sublime Porte et de provoquer les mesures nécessaires pour la rentrée des arriérés.

Le Gouvernement accordera à l'Administration du Conseil la protection militaire indispensable à la sécurité de son siège principal et des services locaux.

Le Gouvernement continuera au conseil l'usage gratuit des locaux qu'il a déjà mis à la disposition de l'Administration actuelle des six Contributions Indirectes.

Les timbres mobiles et papiers timbrés nécessaires pour le service des opérations du conseil seront fournis par le Gouvernement sous la surveillance et aux frais de ce dernier.

Indépendamment des employés de l'Etat chargés de la police et de la surveillance des services à exercer par l'Etat, le conseil pourra nommer des employés auxiliaires ne relevant que de lui-même, ainsi que des inspecteurs secrets, chargés de prévenir les fraudes, qui devront être punies conformément aux lois.

Les surveillants secrets de l'administration recevront, à l'instar de ceux du Gouvernement, la partie usuelle des amendes et des doubles droits à payer par les contrevenants.

Le conseil arrêtera les règlements concernant les délibérations et l'expédition des affaires.

Il signera les obligations à émettre, conformément à la convention ci-annexée pour acquitter les créances des signataires de ladite convention, indiquée à l'article 10.

Article 17.

Le Conseil d'Administration sera tenu de dresser et de présenter au Ministère des Finances, deux mois avant le commencement de chaque année

budgétaire, un budget indiquant les prévisions du conseil sur les recettes et dépenses, notamment sur les sommes qui devront être appliquées, dans le courant de ladite année, au service des obligations prévues dans la convention ci-annexée et au service de la Dette établie par l'article 3.

Ce budget devra être conforme aux règlements existants et sera approuvé par le Gouvernement Impérial dans le délai de deux mois.

Il sera inséré au budget général de l'Empire.

Le Ministère des Finances remettra au conseil un extrait certifié du susdit budget, concernant l'Administration des Revenus concédés.

Le conseil sera tenu de présenter tous les mois, d'après les renseignements qu'il aura reçus, et selon les règles et les usages en vigueur au Ministère Impérial des Finances, un état indiquant toutes les recettes et les encaissements généraux opérés sur les revenus et ressources en question, ainsi que les paiements effectués dans le même mois.

Le conseil aura, de même, à soumettre, à l'expiration de chaque année d'exercice, son compte général définitif au Ministère susénoncé.

Le conseil présentera, chaque semestre, au Ministre des Finances, le compte nécessaire indiquant les envois faits en Europe, à valoir sur le service de la Dette établie par l'article 3, et les paiements effectués aux porteurs.

Le conseil fera publier tous les mois, dans toutes les capitales où aura lieu l'enregistrement, un état sommaire des recettes et des paiements effectués pendant le mois précédent.

Cet état indiquera:

1. Le montant des recettes réalisées sur les produits de chacune des six Contributions Indirectes, ainsi que de chaque autre revenu concédé aux porteurs;

2. La totalité des paiements effectués pour les frais généraux d'administration;

3. Les sommes versées à valoir sur les obligations prévues dans la convention ci-annexée;

4. Les fonds transmis en Europe pour le service de la Dette mentionnée à l'article 3; et

5. L'encaisse existant à Constantinople et en province, à la fin du mois.

La publication du tableau mensuel aura lieu, au plus tard, un mois après l'expiration du mois auquel il se rapporte.

Le conseil publiera également, tous les ans, pour l'information des porteurs, un compte rendu de son administration.

Article 18.

L'Administration des Revenus concédés sera soumise au contrôle du Gouvernement Impérial. Ce contrôle s'exercera par un commissaire et par des contrôleurs, nommés par le Gouvernement et accrédités auprès de ladite administration.

Le Commissaire Impérial devra être invité à chaque séance du conseil. Il y siégera avec voix consultative.

Toute communication du Gouvernement au conseil et réciproquement sera faite par l'entremise dudit commissaire.

Le ressort de chaque contrôleur sera déterminé par le Gouvernement Impérial.

Le commissaire et chaque contrôleur, dans son ressort, auront le droit de prendre connaissance de la gestion du conseil et de ses employés, d'examiner les livres et autres documents y relatifs, et de procéder à la vérification des caisses, en présence d'un délégué du conseil, à Constantinople, et des chefs de service, en province; mais ils ne pourront, dans aucun cas, s'immiscer dans l'administration. Le conseil à Constantinople et ses employés en province—ces derniers en présence des chefs des services locaux qui ne peuvent pas refuser leur assistance—seront tenus de donner au commissaire et aux contrôleurs du Gouvernement tous les renseignements nécessaires pour l'exercice du contrôle.

Les traitements et frais de voyages des contrôleurs, ainsi qu'en général les charges résultant de la police et la surveillance des services à exercer par l'Etat, seront supportés par le Gouvernement Impérial. Le traitement du commissaire sera à la charge du conseil.

Article 19.

Toute contestation qui viendrait à surgir entre le Gouvernement Impérial et le conseil, au sujet de l'interprétation et de l'exécution du présent décret, sera soumise au jugement de quatre arbitres nommés de part et d'autre, lesquels arbitres éliront un sur-arbitre pour les départager, le cas échéant.

Le jugement arbitral sera souverain et sans appel.

Article 20.

Dans le cas où le Gouvernement casserait ou suspendrait l'arrangement présent, les porteurs rentreront dans la plénitude de leurs droits établis par les contrats originaux d'emprunts, en tant que leurs titres n'auront pas encore été amortis, en conformité avec les dispositions du présent décret.

Les sûretés aux porteurs par les contrats originaux d'emprunts resteront affectées pour la sauvegarde desdits droits, jusqu'à ce que les emprunts, auxquels sont affectées ces sûretés par les contrats respectifs, soient complètement éteints en conformité avec les dispositions du présent décret.

Article 21.

Le Gouvernement Impérial communiquera sans délai aux Puissances le présent décret, qui entrera en vigueur à partir de la date de sa publication, excepté en ce qui concerne l'Administration des Revenus concédés, laquelle commencera à partir du 1er (13) janvier, 1882.

Dans le cas où les membres du Conseil d'Administration ne seraient pas réunis à Constantinople le 1er (13) janvier, 1882, l'Administration actuelle des six Contributions Indirectes continuera, après cette date, à

administrer lesdites contributions au nom du conseil, jusqu'à ce que ce dernier soit prêt à entrer en fonctions, afin que, de cette manière, il n'y ait point de lacune dans la marche de l'Administration des Revenus concédés.

Annexe No. 2.

Entre le Gouvernement Impérial ottoman, représenté par son Altesse Saïd Pacha, Premier Ministre, et son Excellence Ahmed Munir Bey, Ministre des Finances, agissant en vertu de l'iradé Impérial en date du 15 (27) décembre, 1881, d'une part, et MM. M. H. Foster, Emile Devaux, et I. von Haas, agissant pour la Banque Impériale ottomane et son groupe, MM. Georges Zarifi, Salomon Fernandez, Bernard Tubini, Eustache Eugenidi, Théodore Mavrogordato, A. Vlasto, A. Barker, Z. Stéfanovich, Leonidas Zarifi, Georges Coronio, Ulysse Negroponte, et Paul Stéfanovich-Schilizzi, signataires de la convention du 10 (22) novembre, 1879, d'autre part, il a été convenu ce qui suit:

Article 1er.

La convention passée le 10 (22) novembre, 1879, entre les contractants susdénommés est résiliée d'un commun accord, à partir du 1er (13) janvier, 1882, aux clauses, charges et conditions suivantes, étant bien entendu qu'en dehors des clauses principales des présentes déterminées par les articles 2, 3, 4 et 5, les autres conditions accessoires telles que le délai pour le règlement des comptes, &c., ne pourront en cas de retard justifié dans leur exécution entraîner la résiliation du présent contrat.

Article 2.

Dans le délai maximum d'un mois, à partir du 31 décembre, 1881 (12 janvier, 1882), le montant auquel s'élèveront à ladite date, en capital et intérêts, les créances des contractants de seconde part de la convention de novembre 1879 sera arrêté d'accord entre le Gouvernement Impérial et lesdits contractants.

Article 3.

Les créances à fixer de la manière indiquée à l'article précédent seront remboursées par des obligations privilégiées au porteur, que le Gouvernement Impérial émettra sur l'invitation du Conseil d'Administration à instituer conformément au décret Impérial émané en date du 8 (20) décembre, 1881, et que le syndicat contractant de la convention du 10 (22) novembre, 1879, s'engage à accepter au pair, obligations dont le montant ne pourra point dépasser la somme énoncée à l'article 10 du susdit décret.

Les obligations seront représentées par des coupures de £T. 22, soit 20*l.*, soit 500 fr., ou par les multiples exacts de ces coupures.

Dressées conformément au type ci-joint, elles seront signées par le Gouvernement Impérial, et „pour acceptation“ par ledit Conseil d'Administration.

Le Gouvernement Impérial ottoman interposera ses bons offices en vue d'obtenir l'admission de ces obligations aux cotes des Bourses de Londres et de Paris.

Il sera affecté au service desdites obligations une annuité de £T. 590,000 à prélever, par privilège et comme première charge, sur le produit net des six contributions indirectes administrées à partir du 1er (13) janvier 1882, par le Conseil d'Administration susmentionné.

Les obligations en question porteront la mention de cette affectation.

Elles seront exemptes du timbre ottoman.

Les frais de la confection des titres seront à la charge des contractants de seconde part.

L'intérêt annuel desdites obligations sera de 5 pour cent et sera payé semestriellement aux échéances du 1er (13) septembre et du 1er (13) mars de chaque année.

Le premier coupon sera payé au 1er (13) septembre, 1882, et portera intérêt pour huit mois, lesdites obligations portant jouissances à partir du 1er (13) janvier, 1882.

Le reliquat de l'annuité de £T. 590,000, déduction faite des sommes nécessaires pour payer l'intérêt de 5 pour cent des obligations émises et de la commission dont il est parlé ci-après, sera appliqué à l'amortissement.

L'amortissement se fera au pair par voie de tirage au sort en conformité du tableau d'amortissement à établir d'accord entre les parties intéressées.

Les tirages s'effectueront en séance publique à Constantinople par les soins du Conseil d'Administration susmentionné dans les mois d'août et de février.

Le remboursement des titres sortis au tirage aura lieu à partir de l'échéance du coupon suivant.

Les titres sortis au tirage ne porteront plus intérêt à partir de la fin du semestre dans lequel le tirage aura lieu.

Les fonds destinés à assurer le service de l'intérêt et de l'amortissement des obligations privilégiées seront versés par le Conseil d'Administration à la Banque Impériale ottomane à Constantinople quinze jours au moins avant les échéances respectives des coupons et des remboursements des titres amortis.

La Banque Impériale ottomane effectuera le paiement des intérêts et des obligations amorties, tant à son siège central à Constantinople, que dans ses succursales et agences.

Elle prélèvera pour ce service et sans pouvoir réclamer aucune autre rémunération de ce chef, une commission de $^1/_2$ pour cent. Les différences de change pouvant résulter des paiements faits en livres sterling et en francs, seront réglées par le Conseil d'Administration des Revenus concédés aux porteurs de la dette publique consolidee sur l'annuité de £T. 590,000 au vu des comptes qui lui seront remis, pour chaque semestre, par la Banque Impériale ottomane. Le taux de $^1/_2$ pour cent pourra être réduit par une entente ultérieure entre la Banque Impériale ottomane et le nou-

veau Conseil d'Administration de la dette publique. Le Gouvernement Impérial se réserve la faculté de proposer une réduction pareille.

Article 4.

Toute différence en plus ou en moins de la somme fixée à l'article 10 du décret Impérial du 8 (20) décembre, 1881, qui résultera de l'établissement définitif au 31 décembre, 1881 (12 janvier, 1882), des comptes relatifs aux avances comprises dans la convention du 10 (22) novembre, 1879, sera réglée par la partie qui en sera reconnue débitrice.

Article 5.

Les quatre impôts énumérés à l'article 1er de la convention du 10 (22) novembre, 1879, ayant été donnés à bail aux contractants de seconde part, il est stipulé dans la lettre adressée à la Sublime Porte par lesdits contractants en date de ladite convention, ainsi que dans l'article 2 de la même convention que si la moyenne du produit des quatre impôts susénoncés, pendant deux années révolues, soit du 1er mars (v.s.), 1294, à fin février (v.s.), 1295, excède le rendement de l'année 1295, l'excédent sera accepté jusqu'à concurrence de 10 pour cent, et que le montant du produit moyen ainsi établi, augmenté de 10 pour cent, d'après les dispositions dudit article 2, sera considéré comme prix de bail, et qu'au cas où la susdite moyenne serait inférieure au produit de l'année 1295, ce dernier produit majoré de 10 pour cent, sera pris pour prix du bail des quatre impôts précités.

Conséquemment, tout excédent qui résultera sur le produit de chacun des deux exercices administratifs des contractants de seconde part, soit des années 1295 et 1296, comparé avec le prix de bail susénoncé, sera prélevé sur les fonds provenant des revenus de l'Administration des Six Contributions indirectes non encore distribués, pour être employé en conformité de l'article 2 de la susdite convention du 10 (22) novembre, 1879.

Article 6.

Le conseil actuel des contractants de seconde part de la convention du 10 (22) novembre, 1879, s'oblige à transférer l'Administration des six Contributions Indirectes au Conseil d'Administration de la Dette publique, le 1er (13) janvier, 1882.

Article 7.

A partir du 1er (13) janvier, 1882, et aussitôt que le Conseil d'Administration de la Dette publique ottomane leur signifiera son intention d'entrer en fonctions, les contractants de la convention du 10 (22) novembre, 1879, lui feront la remise de leur service, laquelle remise sera constatée par un procès-verbal en due forme.

A cet effet, lesdits contractants consigneront entre les mains dudit conseil tous les livres, papiers, &c., concernant leur administration, et lui transféreront, le même jour, tous les effectifs libres existant dans ses caisses, à l'exclusion des parts revenant au Gouvernement Impérial et aux

signataires de la convention du 10 (22) novembre, 1879, sur l'excédent des quatre contributions indirectes conformément aux dispositions de l'article 2 de ladite convention, ainsi que tous les fonds disponibles qui se trouveront déposés à la Banque Impériale ottomane pour le compte des porteurs de la dette ottomane, représentés par ledit conseil et qui proviendront soit de la redevance de la Roumélie orientale, soit du produit des six Contributions Indirectes.

Le conseil actuel communiquera au conseil nouveau, dans le délai d'un mois au plus tard, son compte rendu sur l'année écoulée.

Article 8.

Dans le cas où les membres du Conseil d'Administration créé par l'iradé Impérial réglant les conditions du service de la dette publique ottomane ne se seront pas réunis à Constantinople le 1er (13) janvier, 1882, les contractants de la convention du 10 (22) novembre, 1879, continueront à administrer les Six Contributions, au nom et pour compte du conseil, jusqu'à ce que ce dernier soit prêt à commencer ses fonctions.

Dans ce cas, lesdits contractants continueront à toucher, pour le temps de leur gestion intérimaire et jusqu'à l'installation du nouveau conseil, les rémunérations dont ils jouissent actuellement.

Article 9.

Toutes les traites garantissant l'avance de £T. 1,660,000, mentionnée dans l'article 12 de la convention du 10 (22) novembre, 1879, qui se trouveront déposées à la Banque Impériale ottomane le 1er (13) janvier, 1882, seront restituées intégralement au Trésor contre la remise que celui-ci fera aux contractants de ladite convention des obligations créées par l'article 3 du présent contrat.

Seront également restitués au Trésor, à la même époque, les titres sortis au tirage et les coupons de l'emprunt de 1873 qui se trouveront déposés à la Banque Impériale ottomane.

Article 10.

Les signataires de la convention du 10 (22) novembre, 1879, déclarent par les présentes n'élever aucune prétention contre le Gouvernement Impérial ottoman, quant à l'indemnité pour des appointements à courir revenant à des fonctionnaires engagés par des contrats non échus, ni quant aux autres débours extraordinaires mentionnés à l'article 13 de ladite convention, le Conseil d'Administration des Revenus concédés aux porteurs de la dette publique ayant pris à sa charge le paiement éventuel des indemnités et débours susmentionnés, suivant le paragraphe 11 de l'article 16 du décret Impérial en date du 8 (20) décembre, 1881.

Article 11.

Pour le cas où le Gouvernement casserait ou suspendrait l'arrangement avec les porteurs de la dette publique ottomane à édicter par le

décret mentionné à l'article précédent, les porteurs des obligations privilégiées, créées d'après le règlement des comptes conformément à l'article 3 de la présente convention, seront admis, pour la garantie du service desdites obligations, au bénéfice des droits qui résultaient de la convention du 10 (22) novembre, 1879, pour les banquiers signataires de ladite convention.

Fait en double à Constantinople, le 16 (28) décembre, 1881.

Le Ministre des Finances,
Sublime Porte, *Munir.*
Bureau de Traduction.

Protocole de l'Entente intervenue entre le Gouvernement Impérial Ottoman et le Conseil d'Administration de la Dette Publique Ottomane, pour la Conversion et l'Unification de la Dette représentée par les Séries non encore amorties, et pour modifier le Régime des Lots Turcs.

L'an 1321 (1319) (1903), et le Lundi, 1er (14) septembre (22 Djémazi-ul-Akhir), se sont réunis à la Sublime Porte

1. Son Altesse Férid Pacha, Grand Vézir, et son Excellence Réchad Pacha, Ministre des Finances, représentant le Gouvernement Impérial Ottoman, dûment autorisés par Iradé de Sa Majesté Impériale le Sultan en date du 18 Djémazi-ul-Akhir, 1321, et le 28 août, 1319;

2. Mr. Henry Babington Smith, Président du Conseil d'Administration de la Dette Publique Ottomane, représentant le dit Conseil aux termes de sa délibération en date du 30 août, 1319 (12 septembre, 1903), et dûment autorisé à l'effet des présentes par les membres du dit Conseil qui ont déclaré avoir les consentements prévus à l'Article VII du Décret du 28 Mouharrem, 1299;

A l'effet d'arrêter définitivement, d'un commun accord, les conditions de la Conversion et de l'Unification de la partie non amortie au 1er (14) septembre, 1903, de la Dette Publique Ottomane, fixée à l'Article III du Décret Impérial du 28 Mouharrem, 1299, et représenté par les Séries créées en 1885 et actuellement existantes, et de modifier le régime des Lots Turcs;

Les parties ci-dessus, agissant d'après les principes de l'Article VII du Décret du 28 Mouharrem, 1299:

Décident d'apporter au dit Décret et à ses Annexes, ainsi qu'à la Convention de 18 (30) avril, 1890, les modifications énoncées dans le projet du Décret-Annexe ci-après, et qui devient définitif par la signature des présentes.

Pour le Conseil d'Administration de la Dette Publique Ottomane:
Le Président,
(Signé) *H. Babington Smith.*

Le Grand Vézir,
(Cachet) *Mehmed Férid.*
Le Ministre des Finances,
(Cachet) *Esseïd Ahmed Réchad.*

Décret-Annexe au Décret du 28 Mouharrem, 1299 (8 (20) décembre, 1881).

Conformément aux principes de l'Article VII du Décret Impérial du 28 Mouharrem, 1299, le Gouvernement Impérial Ottoman, ayant, d'un commun accord avec le Conseil d'Administration de la Dette Publique Ottomane, décidé de procéder à la conversion et à l'unification de la partie non amortie au 1er (14) septembre, 1903, de la Dette fixée à l'Article III du dit Décret, et à la modification du régime des Lots Turcs, et les négociations poursuivies à cet effet ayant eu pour résultat une entente complète entre les parties, entente constatée par un Protocole portant leurs signatures, le Gouvernement, sur la base de cette entente, décrète, par les présentes, ce qui suit:

Article Ier. En représentation des titres des Séries B, C, et D en circulation au 1er (14) septembre, 1903, et pour les objets indiqués à l'Article II, le Gouvernement Impérial Ottoman décide la création de 1,488,126 obligations nouvelles, formant ensemble un montant nominal de £ T. 32,738,772, ou 29,762,520*l.*, ou 744,063,000 fr.

Ces obligations jouiront entre elles de droits et privilèges identiques et, en conséquence, les distinctions existant entre l'une ou l'autre des Séries sont abrogées.

Les nouvelles obligations seront au porteur et libellées en langues Turque, Anglaise, et Française.

Les dites obligations seront de £ T. 22, ou 20*l.*, ou 500 fr., ou de leurs multiples.

Elles porteront un intérêt de 4 pour cent l'an payable sur les recettes nettes des revenus concédés à l'Administration de la Dette Publique Ottomane. Cet intérêt sera payable les 1er (14) mars et 1er (14) septembre de chaque année comme suit:

A Constantinople, à Londres, et à Paris, par £ T. 0.44, £ 0.8*s.*, et 10 fr. respectivement;

A Amsterdam, à Berlin, à Bruxelles, et à Vienne, au cours du change à vue sur Paris.

Le premier coupon sera payé le 1er (14) mars, 1904.

Les nouvelles obligations seront dotées d'un fonds d'amortissement ordinaire de 0.45 pour cent l'an.

Sur le produit net indiqué ci-dessus il sera prélevé

1. L'annuité des obligations dites de priorité, jusqu'à l'extinction de celles-ci;

2. L'intérêt de 4 pour cent pour la Dette Convertie Unifiée et la proportion de l'annuité accordée aux Lots Turcs correspondant à cet intérêt, soit £ T. 243,000;

3. La somme nécessaire pour effectuer l'amortissement de 0.45 pour cent prévu ci-dessus et le solde de l'annuité totale accordée aux Lots Turcs, soit £ T. 27,000.

Les intérêts des titres retirés de la circulation de quelque manière que ce soit seront ajoutés au fonds d'amortissement.

Art. II. Ces nouvelles obligations porteront le nom de „Obligations de la Dette Convertie Unifiée de l'Empire Ottoman."

Ces nouvelles obligations seront échangées par l'intermédiaire de l'Administration de la Dette Publique Ottomane contre les Titres B, C, et D détenus par les porteurs, et ce dans les proportions suivantes:

Pour 100*l.* nominales Série B, 70*l.* nominales en titres nouveaux;
Pour 100*l.* nominales Série C, 42*l.* nominales en titres nouveaux;
Pour 100*l.* nominales Série D, 37*l.* 10*s.* nominales en titres nouveaux.

Les anciens titres seront remis par la Dette Publique Ottomane au Ministère Impérial des Finances.

Ils cesseront de porter intérêt à partir du 1er (14) septembre, 1903.

Les anciens titres des Séries B, C, et D, qui ne seront pas présentés à l'échange dans un délai de quinze années, seront prescrits au profit du Gouvernement Impérial, auquel il sera restitué la portion des nouvelles obligations émises en représentation de ces titres.

L'opération de l'échange aura lieu par les soins des Etablissements suivants:

A Constantinople, par les soins de la Banque Impériale Ottomane;

A Amsterdam, par les soins de l'Etablissement indiqué par le Comité de la Bourse;

En Belgique, par les soins des Etablissements financiers désignés par le Comité de la Bourse d'Anvers;

A Berlin, par les soins de la Maison Bleichrœder et de la Deutsche Bank;

A Francfort, par les soins de la Maison Bethmann Frères et de la Deutsche Bank;

A Londres, par les soins de la Banque Impériale Ottomane et du Council of Foreign Bondholders;

A Paris, par les soins de la Banque Impériale Ottomane et des établissements indiqués à l'Article IV du Décret du 28 Mouharrem, 1299;

A Rome, par les soins de la Banca d'Italia et de la Banca Commerciale Italiana;

A Vienne, par les soins de la Société Impériale et Royale Privilégiée Autrichienne de Crédit pour le Commerce et l'Industrie, de la Société Générale Impériale et Royale Privilégiée du Crédit Foncier d'Autriche, et de la Banque Anglo-Autrichienne.

Le capital de £ T. 32,738,772, plus une somme de 100,000*l.*, qui sera versée par le Gouvernement Impérial Ottoman à la Dette Publique Ottomane, servira à échanger aux taux ci-dessus indiqués les Séries B, C, et D et à augmenter le Fonds de Réserve dont il est parlé à l'Article VIII d'une somme en espèces de £ T. 300,000 au moins. Le solde, soit £ T. 1,460,000, est réservé pour les frais de l'opération.

Art. III. Les nouvelles obligations jouiront de tous les droits, privilèges et garanties concédés par le Décret de Mouharrem, et le Conseil d'Administration de la Dette Publique Ottomane continuera à fonctionner comme

par le passé et en stricte conformité des dispositions du Décret de Mouharrem.

L'affectation de tous les revenus concédés aux créanciers par le Décret de Mouharrem est confirmée, y compris les plus-values à provenir dans les recettes douanières par suite de la révision des traités de commerce et de la modification des tarifs douaniers, ainsi qu'il est prévu dans le Décret de Mouharrem. Il est entendu que le Gouvernement Impérial n'est pas appelé à affecter d'autres revenus que ceux énumérés au Décret de Mouharrem et résumés ci-dessus.

Art. IV. L'amortissement se fera par voie de rachats en Bourse si les titres sont au-dessous du pair, et par tirages au sort avec remboursement au pair si les titres sont au pair ou au-dessus du pair.

Les tirages pour l'amortissement se feront, s'il y a lieu, chaque semestre, les 1er (14) janvier et 1er (14) juillet de chaque année, par les soins du Conseil d'Administration de la Dette Publique Ottomane, à Constantinople, en présence d'un Délégué du Gouvernement Impérial. Le paiement des obligations sorties se fera les 1er (14) mars et 1er (14) septembre qui suivront la date de chaque tirage.

Le premier tirage se fera, s'il y a lieu, dans le mois de janvier 1904.

Lors du remboursement des obligations sorties aux tirages, tous les coupons non échus à la date fixée pour le remboursement devront se trouver attachés aux titres et les coupons manquants seront déduits du montant à rembourser au porteur du titre amorti.

Le résultat de chaque tirage sera publié aux frais de la Dette Publique Ottomane.

Art. V. Les coupons échus qui n'auront pas été présentés à l'encaissement dans les six années qui suivront la date de leurs échéances, ainsi que les obligations sorties aux tirages et non présentées à l'encaissement dans les quinze ans qui suivront le jour de leur exigibilité, seront prescrits au profit du Gouvernement Impérial.

Art. VI. L'annuité de £ T. 430,500 affectée par la Convention du 18 (30) avril, 1890, aux obligations Ottomanes de priorité sera reversée, à l'extinction desdites obligations, en 1932, dans les recettes générales de la Dette Publique Ottomane.

Toutefois, le Gouvernement Impérial se réserve le droit de procéder, conformément à l'Article XXXV de la Convention du 18 (30) avril, 1890, à toute époque, et pour son compte, à la conversion ou au remboursement des obligations Ottomanes de priorité. Dans le cas où il déciderait la conversion desdites obligations de priorité, il pourra créer un montant de titres identiques aux nouvelles obligations en y affectant l'annuité de £ T. 430,500. Ces titres feront partie intégrante de la Dette Convertie Unifiée, sans distinction de rang ni de traitement avec les titres existant de ladite Dette.

Dans ce cas, la Banque Impériale Ottomane, qui désignait le Délégué des porteurs des obligations de priorité, nommera, comme par le passé, un représentant qui jouira des mêmes droits et avantages que ceux réservés

au Délégué des porteurs des obligations de priorité par le Décret de Mouharrem.

Art. VII. Les excédents de recettes nettes de la Dette Publique Ottomane au-dessus du chiffre de £ T. 2,157,375 seront partagés entre le Gouvernement Impérial et la Dette Publique Ottomane dans les proportions suivantes:

75 pour cent au Gouvernement Impérial;
25 pour cent à la Dette Publique Ottomane.

Cependant, à partir de 1932, année où seront éteintes les obligations Ottomanes de priorité, le partage se fera à partir d'un chiffre de recettes de £ T. 1,726,875, mais cela seulement au cas où lesdites obligations n'auraient pas été antérieurement converties ou remboursées.

La part de 25 pour cent de la Dette Publique Ottomane dans les excédents ci-dessus indiqués sera appliquée à un amortissement extraordinaire des obligations de la Dette Convertie Unifiée et des Lots Turcs, et, pour ces derniers, il sera procédé conformément aux dispositions de l'Article X des présentes.

Art. VIII. Le Conseil d'Administration de la Dette Publique Ottomane constituera un Fonds de Réserve auquel il sera versé:

(*a.*) Toute somme existant au 1er (14) septembre, 1903, au compte appelé „Fonds de Réserve pour augmentation du taux de l'intérêt," conformément aux comptes à rendre par le dit Conseil;

(*b.*) La somme de £ T. 300,000 au moins à provenir, suivant les dispositions de l'Article II, du produit des nouveaux titres;

(*c.*) La somme de £ T. 150,000 à verser par le Gouvernement Impérial Ottoman à raison de £ T. 15,000 par an, à partir de 1319.

Au cas où il viendrait à se produire au cours d'un exercice une moins-value dans les recettes au-dessous du chiffre de £ T. 2,157,375, toute insuffisance sera prélevée sur les intérêts et au besoin sur le principal du Fonds de Réserve.

Ces prélèvements devront être remboursés le ou les exercices suivants par prélèvements sur les excédents de recettes de la Dette Publique Ottomane destinés aux amortissements extraordinaires prévus à l'Article VII.

Dans le cas où, au cours d'un exercice, un prélèvement aurait été fait sur le Fonds de Réserve, par suite d'une insuffisance des recettes provenant de retards apportés au versement des sommes payables en vertu des §§ 6, 7, et 8 de l'Article VIII du Décret Impérial du 28 Mouharrem, 1299, les arriérés des revenus spécifiés à ces trois paragraphes seront appliqués en premier lieu, lors de leur recouvrement, au remboursement du dit prélèvement.

Le Fonds de Réserve sera augmenté de ses intérêts en tant qu'ils n'auront pas été employés comme il vient d'être dit.

Lorsque le Fonds de Réserve sera de £ T. 2,000,000, les intérêts de ce fonds entreront dans les recettes générales de la Dette Publique Ottomane.

Lorsque la Dette Unifiée sera réduite à £ T. 16,000,000, la réserve sera ramenée au chiffre de £ T. 1,000,000, et l'excédent à partir de ce montant sera tenu à la disposition du Gouvernement Impérial. Les intérêts de la Réserve ainsi réduite continueront à être employés comme ci-dessus.

A l'extinction de la Dette Convertie Unifiée et des Lots Turcs, toute somme existant au Fonds de Réserve fera retour au Gouvernement Impérial.

Art. IX. Le Gouvernement Impérial s'interdit d'établir aucun droit pouvant amener une réduction ou déduction quelconque sur le paiement des coupons et le remboursement des obligations créées en vertu du présent Décret, les obligations et leurs coupons étant à tout jamais exempts de toute taxe et de tout impôt dans l'Empire Ottoman.

Art. X. L'annuité fixée par les stipulations du Décret de Mouharrem pour les Lots Turcs et les sommes qui leur ont été ultérieurement accordées seront remplacées, jusqu'à l'extinction de la Dette Convertie Unifiée, par une annuité de £ T. 270,000, qui commencera à courir à partir du 1er (14) septembre, 1903.

En outre, ces titres bénéficieront de toutes sommes provenant de primes et amortissements sur les Lots qui ont été rachetés par la Dette Publique Ottomane ou qui le seront conformément à ce qui est dit ci-dessous.

Les titres rachetés ou à racheter par la Dette Publique Ottomane seront annulés, mais les numéros en resteront dans la roue et les sommes revenant à ces titres lors des tirages seront employées comme il est dit ci-après.

Les Lots Turcs participeront également pour une proportion de 40 pour cent dans la part revenant à la Dette Publique Ottomane sur les excédents de recettes prévus à l'Article VII.

L'emploi de ces diverses sommes se fera de la manière suivante:

A partir du 1er (14) septembre, 1903, et jusqu'au remboursement complet, les Lots sortis aux tirages seront payés à raison de 60 pour cent, soit 240 fr. l'un en ce qui concerne les titres non primés, c'est-à-dire, les Lots sortis à 400 fr. nominal; et à raison de 100 pour cent, c'est-à-dire, d'après le montant indiqué au tableau d'amortissement, pour les Lots sortis avec prime.

Sur les diverses sommes revenant aux Lots Turcs en vertu de ce qui précède, on prélèvera tout d'abord le montant nécessaire pour le paiement, comme il vient d'être dit, des Lots sortis aux tirages, lesquels tirages auront lieu conformément au plan primitif d'amortissement. Tout excédent devra être appliqué à des rachats en Bourse jusqu'au prix de 240 fr.

Pour le cas où les cours ne permettraient pas les rachats jusqu'à 240 fr., les sommes disponibles pour ces rachats seront placées par le Conseil de la Dette, et ce jusqu'à ce que les dites sommes permettent au Conseil de procéder, avec le consentement du Gouvernement Impérial, à un tirage extraordinaire par anticipation du plus prochain tirage, ces tirages

extraordinaires devant naturellement avoir pour conséquence d'avancer les termes des tirages ultérieurs, sans toutefois entraîner la déduction le l'intérêt composé ci-dessous prévu.

Si, après épuisement du Fonds de Réserve indiqué à l'Article VIII, l'annuité disponible ne suffit pas pour payer le nombre des titres suivant le plan d'amortissement, le nombre des titres à tirer sans prime sera réduit dans la limite des sommes disponibles sauf à rentrer ultérieurement dans le plan primitif d'amortissement.

Le Gouvernement Impérial aura à toute époque le droit d'anticiper les tirages, en commençant par le plus proche et dans leur ordre chronologique. Les Lots ainsi sortis seront remboursés à raison de 240 fr. pour les Lots sortis à 400 fr. Pour les Lots primés, ils seront payés sous déduction d'un intérêt composé de six mois en six mois, calculé à 3 pour cent l'an, pour la période comprise entre le jour où sera effectué le remboursement et celui où ce remboursement serait exigible d'après le tableau d'amortissement.

De leur côté, les porteurs de Lots Turcs renoncent à toute réclamation d'intérêt sur la base du paragraphe C de l'Article XIII du Décret de Mouharrem. En conséquence, ils seront invités à remettre la feuille de coupons qui est attachée aux titres à la Dette Publique Ottomane, qui conservera ces feuilles jusqu'au remboursement complet de tous les Lots.

Art. XI. Le Gouvernement Impérial Ottoman se réserve le droit de retirer, à partir de 1913, les obligations de la Dette Convertie Unifiée, en remboursant au pair tous les titres restant en circulation.

Art. XII. Toutes les dispositions du Décret de Mouharrem et de ses Annexes qui ne sont pas modifiées par les présentes restent en vigueur.

Art. XIII. Le présent Décret faisant partie intégrante du Décret du 28 Mouharrem, 1299 (8 (20) décembre, 1881), le Gouvernement Impérial remplira à son égard les formalités prévues à l'Article XXI du Décret de Mouharrem.

Pour le Conseil d'Administration de la Dette Publique Ottomane:	Le Grand Vézir,
	(Cachet) *Mehmed Férid.*
Le Président,	Le Ministre des Finances,
(Signé) *H. Babington Smith.*	(Cachet) *Esseïd Ahmed Réchad.*

23.

GRANDE-BRETAGNE, MASCATE.

Déclaration du Sultan de Mascate donnant l'assurance de ne céder les territoires de Mascate et d'Oman et leurs dépendances à aucune puissance excepté la Grande-Bretagne; signée le 20 mars 1891.

British and Foreign State Papers C (1911), p. 591.

Declaration between Great Britain and the Sultan of Muskat and Oman providing for the Non-cession of Territory except to Great Britain.

Praise be to God alone!

The object of writing this lawful and honourable Bond is that it is hereby covenanted and agreed between His Highness Seyyid Feysal bin Turki bin Saeed, Sultan of Muskat and Oman, on the one part, and Colonel Edward Charles Ross, Companion of the Star of India, Her Britannic Majesty's Political Resident in the Persian Gulf, on behalf of the British Government, on the other part, that the said Seyyid Feysal bin Turki bin Saeed, Sultan of Muskat and Oman, does pledge and bind himself, his heirs and successors, never to cede, to sell, to mortgage, or otherwise give for occupation, save to the British Government, the dominions of Muskat and Oman or any of their dependencies.

In token of the conclusion of this lawful and honourable Bond Seyyid Feysal bin Turki bin Saeed, Sultan of Muskat and Oman, and Colonel Edward Charles Ross, Companion of the Star of India, Her Britannic Majesty's Political Resident in the Persian Gulf, the former for himself, his heirs and successors, and the latter on behalf of the British Government, do each, in the presence of witnesses, affix their signatures on this 9th day of Shaaban, 1308 (A.H.), corresponding to the 20th day of March (A.D.), 1891.

E. C. Ross, Colonel, Political Resident in the Persian Gulf.

(Signature of His Highness Seyyid Feysal bin Turki bin Saeed, Sultan of Muskat and Oman.)

Lansdowne,
Viceroy and Governor-General of India.

Ratified by his Excellency the Viceroy and Governor-General of India at Simla on the 23rd day of May, 1891.

H. M. Durand, Secretary to the Government of India,
Foreign Department.

24.

ESPAGNE, FRANCE.

Echange de notes en vue de la conclusion d'un Modus vivendi commercial; du 30 décembre 1893.*)

British and Foreign State Papers XCIX, p. 1093.

(1.) M. de Léon y Castillo, Ambassadeur d'Espagne à Paris, à M. Casimir-Perier, Président du Conseil, Ministre des Affaires Etrangères.

Paris, le 30 décembre, 1893.

M. le Président,

Mon Gouvernement ayant conclu avec plusieurs nations Européennes des Traités de Commerce dont quelques-uns seront appliqués à partir du 1er janvier, 1894, la nécessité s'imposait, pour la France et l'Espagne, d'examiner à nouveau la question du *modus vivendi* qui règle leurs relations commerciales, par suite de l'échange des notes et de la publication des Décrets respectivement effectués les 27 et 28 mai, 1892.

Conformément au texte du Décret Espagnol, les produits Français jouissent des avantages de la seconde colonne, c'est-à-dire du tarif minimum des douanes de l'Espagne.

Mais cette colonne a été modifiée en faveur des pays qui ont négocié des Traités de Commerce avec l'Espagne, en échange des concessions octroyées aux produits Espagnols, sans que le Gouvernement de Sa Majesté puisse légalement étendre ces réductions aux produits des Etats qui n'offrent pas, par réciprocité, des compensations équivalentes aux sacrifices que mon pays s'impose par ces réductions de son tarif général.

Le prédécesseur de votre Excellence, M. Ribot, déclarait, dans sa note du 27 mai dernier, que les deux Gouvernements rechercheraient, d'un commun accord, sur quels points il serait possible de donner satisfaction aux réclamations qui se sont produites quant aux différences existant entre les tarifs minimum des deux pays. Bien qu'on ne soit encore arrivé jusqu'à présent à aucun accord sur ce point, il est évident que beaucoup des réclamations Françaises, communes à d'autres pays, ont reçu satisfaction dans les Conventions que nous venons de conclure.

Par contre, les réclamations élevées par l'Espagne sont restées jusqu'ici sans aucune solution.

Cet état de choses nous met en présence d'une pénible alternative. Si, au 1er janvier prochain, nous continuons d'appliquer les chiffres de la seconde colonne aux produits Français, ceux-ci se trouvent soumis à un

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*) V. l'Echange de notes du 29 novembre 1906; ci-dessous No. 25.

droit différentiel incompatible, je le reconnais loyalement, avec les prescriptions de la loi qui régit les tarifs de douane en France. Si nous leur accordons les bénéfices de notre nouveau tarif conventionnel, sans obtenir de compensations, il en résulte pour nous des difficultés légales du même ordre.

Mais votre Excellence ne peut douter du sincère désir qu'a le Gouvernement du Roi, ni de celui que j'ai moi-même d'arriver, dans nos relations commerciales, à l'harmonie et à l'entente que réclame la solidarité de nos intérêts réciproques. M'inspirant de ces sentiments et tenant compte de l'impossibilité matérielle d'arriver à une solution définitive dans le peu de temps dont nous pouvons disposer avant le 1er janvier prochain, je me suis efforcé de chercher les termes d'un nouvel arrangement provisoire qui sauve les difficultés présentes et nous permette d'arriver, dans un délai rapproché, à la conclusion d'un accord durable et satisfaisant pour les deux nations.

A cet effet, je suis autorisé par le Gouvernement de Sa Majesté à proposer à votre Excellence l'arrangement suivant:

Dans le cours de l'année qui commence le 1er janvier, 1894, on appliquerait, à titre de *modus vivendi,* sauf dénonciation de part ou d'autre trois mois d'avance, aux produits Français entrant en Espagne le tarif conventionnel résultant des Traités déjà approuvés par les Cortès et de ceux qui, dans le cours de cette même année, seraient mis en vigueur.

Par réciprocité, la France accorderait à l'Espagne le bénéfice de ses tarifs les plus réduits, étant entendu que l'Espagne bénéficierait de tous les tarifs conventionnels qui pourraient être, pendant cette même période, mis en vigueur et, en outre, pour donner satisfaction à certaines réclamations présentées par nos exportateurs, la France consentirait:

1⁰ A rapporter le Décret qui interdit l'importation en Algérie des fruits et légumes frais;

2⁰ A faire connaître officiellement à l'avenir au Gouvernement Espagnol les procédés et appareils usités dans les laboratoires chimiques établis dans les bureaux de douane pour l'analyse des vins. Elle consentirait, en outre, à ce que les bureaux de douane Français, en cas de contestation, tiressent compte, autant que possible, des certificats d'analyse émanant des Instituts du Gouvernement Royal d'Espagne, demeurant bien entendu que cette disposition ne porte aucune atteinte au droit de la France de procéder comme elle l'entend à l'analyse des vins importés;

3⁰ Enfin, à se concerter avec le Gouvernement Espagnol au sujet des dispositions à prendre réciproquement pour assurer la répression de la contrebande qui pourrait se produire sur la frontière terrestre ou dans les ports des deux pays.

La discussion, à ce sujet, devra porter notamment sur les sociétés illégales qui auraient pour but de favoriser la fraude, et sur les mesures communes qui pourraient être prises par les deux administrations compétentes à l'effet de la faire disparaître;

4⁰ Les produits Français continueront à être admis aux îles de Cuba et de Puerto-Rico, d'après la seconde colonne de leurs tarifs.

Veuillez agréer, &c.,

F. de Léon y Castillo.

(2.) M. Casimir-Perier, Président du Conseil, Ministre des Affaires Etrangères, à M. de Léon y Castillo, Ambassadeur d'Espagne à Paris.

Paris, le 30 Décembre, 1893.

M. l'Ambassadeur,

Par votre lettre d'aujourd'hui, vous avez bien voulu m'exposer les conditions nouvelles qui résultent pour l'Espagne de l'entrée en vigueur, à la date du 1er janvier prochain, des nouveaux Traités passés par elle avec certaines Puissances étrangères et vous avez attiré l'attention du Gouvernement de la République sur la nécessité qui s'imposait d'examiner, d'un commun accord, la question du *modus vivendi* actuellement existant entre les deux pays. Vous avez bien voulu reconnaître également que, malgré le désir des deux Puissances d'arriver, le plus tôt possible, à un accord durable réglant les relations économiques entre les deux pays, le court délai qui nous sépare du 1er janvier rendait impossible la conclusion d'une pareille entente. Dans ces conditions, vous m'avez fait savoir que vous étiez autorisé par votre Gouvernement à nous proposer l'arrangement suivant:

Dans le cours de l'année qui commence le 1er janvier, 1894, on appliquerait, à titre de *modus vivendi*, sauf dénonciation de part et d'autre trois mois à l'avance, aux produits Français entrant en Espagne le tarif conventionnel résultant des Traités déjà approuvés par les Cortès et de ceux qui, dans le cours de cette même année, seraient mis en vigueur.

Par réciprocité, la France accorderait à l'Espagne le bénéfice de ses tarifs les plus réduits, étant entendu que l'Espagne bénéficierait de tous les tarifs conventionnels qui pourraient être, pendant cette même période, mis en vigueur, et, en outre, pour donner satisfaction à certaines réclamations présentées par vos exportateurs, la France consentirait:

1⁰ A rapporter le Décret qui interdit l'importation en Algérie des fruits et légumes frais;

2⁰ A faire connaître officiellement à l'avenir au Gouvernement Espagnol les procédés et appareils usités dans les bureaux de douane pour l'analyse des vins. En outre, les bureaux de douane Français tiendront compte, autant que possible, des certificats d'analyse émanant des Instituts du Gouvernement Royal d'Espagne. Il demeure bien entendu que cette disposition ne porte aucune atteinte au droit de la France de procéder, comme elle l'entend, à l'analyse des vins importés;

3⁰ Enfin, à se concerter avec le Gouvernement Espagnol sur les dispositions à prendre réciproquement pour assurer la répression de la

contrebande qui pourrait se produire sur la frontière terrestre ou dans les ports des deux pays. La discussion à ce sujet devra porter notamment sur les sociétés illégales qui auraient pour but de favoriser la fraude et sur les mesures communes qui pourraient être prises par les deux administrations compétentes à l'effet de la faire disparaître;

4º Les produits Français continueraient à être admis aux îles de Cuba et de Puerto-Rico, d'après la seconde colonne des tarifs.

J'ai l'honneur de porter à votre connaissance qu'après un examen attentif, le Gouvernement de la République accepte l'arrangement en question; toutefois, en ce qui concerne la dérogation au Décret qui interdit l'importation en Algérie des fruits et légumes frais, cette dérogation ne saurait s'étendre aux dispositions des Articles 1er et 3 qui n'ont été prises que comme mesures contre le phylloxéra et n'intéressent en rien ni les fruits ni les légumes frais. Un Décret abrogerait l'Article 2 du Décret précité, lequel est ainsi conçu:

„Est également prohibée l'entrée en Algérie des fruits et légumes frais de toute nature."

Cette réserve étant acceptée par vous, il serait entendu qu'à partir du 1er janvier prochain les mesures seront prises pour mettre cet arrangement simultanément à exécution dans les deux pays.

Agréez, &c.,

Casimir-Perier.

(3.) M. de Léon y Castillo, Ambassadeur d'Espagne à Paris, à M. Casimir-Perier, Président du Conseil, Ministre des Affaires Etrangères.

Paris, le 30 décembre, 1893.

M. le Président,

J'ai l'honneur de vous accuser réception de votre lettre du 30 courant avec la réserve qu'elle contient au sujet des Articles 1er et 3 du Décret du 17 juin, 1884. Au nom de mon Gouvernement, je déclare adhérer à l'arrangement ainsi conclu entre les deux pays.

Veuillez agréer, &c.

F. de Léon y Castillo.

25.

FRANCE, ESPAGNE.

Echange de notes en vue de proroger *sine die* le Modus vivendi commercial existant entre les deux pays;*) du 29 novembre 1906.

Olivart, Tratados de España 1906. No. 27.

(Traducción.)

El Excmo. Sr. Embajador Extraordinario y Plenipotenciario de la República Francesa, al Excmo. Sr. Ministro de Estado.

Madrid 29 de Noviembre de 1906.

Sr. Ministro: En las conferencias que hemos celebrado estos últimos días hemos reconocido la conveniencia de prorrogar *sine die* el *modus vivendi* que rige las relaciones comerciales entre España y Francia.

Tengo el honor de participarle que estoy autorizado por el Gobierno de la República para concertar con V. E. la continuación *sine die* entre los dos Países del régimen comercial actual, basado en la concesión de la tarifa de Aduana la más reducida. Queda entendido que ambas Naciones gozarán de todas las ventajas que desde esta fecha cada una de ellas pudiera conceder á una tercera Potencia. Queda igualmente convenido que en el caso que una de las Partes denunciara el presente acuerdo, no expirará éste sino tres meses después de su denuncia.

Jules Cambon.

(Traducción.)

El Excmo. Sr. Ministro de Estado al Excmo. Sr. Embajador Extraordinario y Plenipotenciario de la República Francesa.

Madrid 29 de Noviembre de 1906.

Sr. Embajador: En respuesta á la Nota del día de hoy, en que V. E., refiriéndose á las conferencias que hemos celebrado sobre la utilidad recíproca para nuestros dos Países de la prórroga del *modus vivendi* que rige las relaciones comerciales entre España y Francia, me participa que está autorizado por el Gobierno de la República para concertar conmigo la continuación *sine die* del régimen comercial actual, basado en la concesión de la tarifa de Aduanas más reducida.

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*) V. le Modus vivendi du 30 décembre 1893; ci-dessus No. 24.

Tengo el honor de manifestar á V. E. que el Gobierno de S. M. conviene igualmente con V. E. en la continuación *sine die* del *modus vivendi* actual, quedando entendido que ambas Naciones gozarán de todas las ventajas que desde esta fecha cada una de ellas pudiera conceder á una tercera Potencia, y queda también convenido que en el caso que una de las dos Partes denunciara el presente acuerdo no expirará éste hasta tres meses después de su denuncia.

Pío Gullón.

26.

ARGENTINE, BOLIVIE.

Convention concernant les chemins de fer facilitant la communication entre les deux pays; signée à Buenos Aires, le 30 juin 1894, suivie d'un Accord supplémentaire, signé à Buenos Aires, le 11 décembre 1902.*)

República Argentina. Tratados, Convenciones etc. Publicación oficial. II (1911), p. 166, 205.

Convención.

En Buenos Aires á los treinta días del mes de Junio de mil ochocientos noventa y cuatro, reunidos en el Despacho del Ministerio de Relaciones Exteriores Su Excelencia el Sr. Dr. D. Eduardo Costa, Ministro Secretario de Estado en el indicado departamento, y Su Excelencia el Sr. Dr. D. Telmo Ichazo, Enviado Extraordinario y Ministro Plenipotenciario de Bolivia, han acordado celebrar la siguiente Convención:

Artículo 1.⁰ El Gobierno de la República Argentina mandará practicar los estudios técnicos necesarios para la prolongación del ferrocarril Central Norte hasta el punto de la frontera de Bolivia que se considere más conveniente á su internación en dicha República.

Art. 2.⁰ El Gobierno de Bolivia mandará practicar á su vez, los estudios técnicos necesarios para la prosecución de la vía férrea desde el punto que se determine, en virtud de lo dispuesto por el artículo anterior, hasta el que reuna mayores ventajas en el interior de la misma República.

Art. 3.⁰ Estos estudios serán practicados por comisiones mixtas que se compondrán, en la sección Argentina, de dos ingenieros argentinos y uno boliviano, y en la de Bolivia, de dos ingenieros bolivianos y uno argentino.

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*) Les ratifications de l'Accord ont été échangées à Buenos Aires, le 29 septembre 1903.

Art. 4.º A los treinta días de la ratificación del presente convenio, se designará las expresadas Comisiones, las que darán principio á sus trabajos á los sesenta días de su nombramiento, debiendo presentarlos en un término que no exceda de doce meses.

Art. 5.º Aprobados los estudios definitivos, el Gobierno Argentino procederá administrativamente ó por empresa particular, á la prolongación del Ferrocarril Central Norte hasta el punto de la frontera de Bolivia que se haya fijado como más conveniente, y á su vez, el Gobierno de Bolivia proseguirá desde el mismo punto su inmediata construcción, tambien directamente ó por medio de una empresa particular.

Art. 6.º El Gobierno Argentino facilitará al de Bolivia los recursos necesarios hasta un cincuenta por ciento de los gastos que demande la construcción de la línea en territorio boliviano.

Art. 7.º El reembolso de la cantidad que el Gobierno de Bolivia recibiere en virtud del artículo anterior, se hará en esta forma: con un treinta por ciento del producto líquido del camino, y con un veinte por ciento de la cantidad que el Gobierno de Bolivia perciba por los derechos aduaneros sobre las mercaderías que se introduzcan en su territorio por esta vía.

Art. 8.º Una convención especial determinará los acuerdos relativos al tráfico comercial, fletes y tarifas de la línea en ambos territorios.

Art. 9.º Aprobado que sea el prensente convenio por los Gobiernos de la República Argentina y de la República de Bolivia, será sometido á la deliberación de las Cámaras Legislativas de uno y otro país.

En fe de lo cual, los Plenipotenciarios de la República Argentina y de la República de Bolivia, firmaron la presente Convención en doble ejemplar y le pusieron sus respectivos sellos.

(L. S.) *Eduardo Costa.*
(L. S.) *Telmo Ichazo.*

Ley Número 3225

El Senado y Cámara de Diputados de la Nación Argentina, reunidos en Congreso, etc., sancionan con fuerza de Ley:

Artículo 1.º Apruébase la convención para la unión ferrocarrilera firmada en Buenos Aires, el día 30 de Junio de 1894, por los Plenipotenciarios de la República Argentina y de Bolivia, debidamente autorizados al efecto, debiéndo introducirse en el texto de ella las alteraciones siguientes:

1.ª En el artículo 1.º, después de las palabras „Central Norte", intercalar las siguientes „ú otro".

2.ª El artículo 5.º, redactado como sigue: „Aprobados los estudios y presupuestos definitivos por ambos Gobiernos, el Gobierno Argentino procederá administrativamente ó por empresa particular á la prolongación del Ferrocarril Central Norte ú otro, hasta el punto de la frontera de

Bolivia que se haya fijado como más conveniente; y á su vez el Gobierno de Bolivia proseguirá desde el mismo punto su inmediata construcción, también directamente ó por medio de una empresa particular.“

3.ª Agregar al final del artículo 6.º las siguientes palabras: „previa una convención en que se estipulará sobre la manera como debe concurrir.“

4.ª El artículo 7.º redactado como sigue: „El reembolso de la cantidad que el Gobierno de Bolivia recibiese en virtud del artículo anterior, se hará gradualmente, destinando á este objeto el treinta por ciento (30 %) del producto líquido del camino, y el veinte por ciento (20 %) de la cantidad que el Gobierno de Bolivia perciba por derechos aduaneros sobre las mercaderías que pasan por esta vía.“

Art. 2.º Los gastos que demande la ejecución de la presente ley se harán de rentas generales y se imputarán á la misma.

Dada en la Sala de Sesiones del Congreso Argentino, en Buenos Aires á veinticuatro de Enero de mil ochocientos noventa y cinco.— *Carlos Doncel.—Adolfo J. Labougle*, Secretario del Senado.—*Francisco Alcobendas—Juan Ovando*, Secretario de la Cámara de Diputados.

Acta de Canje.

En la Ciudad de Sucre, á los catorce días del mes de Diciembre de mil ochocientos noventa y cinco, reunidos en el Despacho del Ministerio de Relaciones Exteriores, Su Excelencia el Sr. Dr. D. Dardo Rocha, Enviado Extraordinario y Ministro Plenipotenciario de la República Argentina, y Su Excelencia el Sr. Dr. Don Emeterio Cano, Ministro de Relaciones Exteriores de la República de Bolivia, con el objeto de proceder al canje de las ratificaciones de la Convención para prolongar el Ferrocarril „Central Norte Argentino ú otro“, ajustado y firmado en la Ciudad de Buenos Aires, á los treinta días del mes de Junio de mil ochocientos noventa y cuatro, por Su Excelencia el Sr. Dr. D. Telmo Ichazo, Enviado Extraordinario y Ministro Plenipotenciario de Bolivia, y Su Excelencia el Sr. Dr. D. Eduardo Costa, Ministro de Relaciones Exteriores de la República Argentina, después de haberse comunicado sus Plenos Poderes, que fueron hallados en buena y debida forma, leídos como corresponde los instrumentos de ratificación de la referida Convención de unión ferrocarrilera, con las modificaciónes introducidas por el Congreso Argentino en los artículos 1.º, 5.º, 6.º y 7.º aceptada por el de Bolivia; y habiendo manifestado su conformidad en todo lo estipulado, se verificó en seguida el canje en la forma de estilo, disponiendo los señores Plenipotenciarios se redactase la presente acta por duplicado, cuyos ejemplares firmaron y sellaron con sus sellos.

(L. S.) *Emeterio Cano.*
(L. S.) *Dardo Rocha.*

Acuerdo la Convención ferroviaria entre la República Argentina y Bolivia.

Reunidos en el despacho del Ministerio de Relaciones Exteriores y Culto de la República Argentina, S. E. el Dr. Luis M. Drago, Ministro del ramo, y S. E. el Dr. Juan C. Carrillo, Enviado Extraordinario y Ministro Plenipotenciario de Bolivia, con el fin de facilitar por acuerdos eficaces la ejecución del pacto ferroviario de 30 de Junio de 1894, previo canje de sus respectivos plenos poderes, y considerando que celebrado, como se halla, el contrato para la prolongación del ferrocarril á Bolivia, con los señores Stremiz y Compañía y verificados ya los estudios de La Quiaca á Tupiza, es indispensable y de gran utilidad para las dos Repúblicas la prosecución inmediata de la obra en la sección boliviana, han convenido en lo siguiente:

Artículo 1.º Aprobados los estudios definitivos, el Gobierno Argentino procederá administrativamente ó por empresa particular, á la prolongación del Ferrocarril Central Norte, desde La Quiaca hasta Tupiza ó hasta el punto que de común acuerdo se considere conveniente designar como terminal de la línea, en cuya construcción el Gobierno Boliviano no tendrá que hacer ningún desembolso inmediato.

Art. 2.º El Gobierno de Bolivia podrá en cualquier tiempo, adquirir la propiedad de la sección de la línea que corre por territorio boliviano, pagando el valor de su costo; pero hasta tanto ese valor no sea reintegrado, el Gobierno Argentino tendrá la administración y manejo de la línea en las mismas condiciones que corresponderían á una empresa privada, sin perjuicio de los derechos inherentes á la soberanía de Bolivia. El Gobierno Boliviano podrá también en cualquier tiempo, devolver parte del capital empleado, y en tal caso, participará en las utilidades de la línea en la proporción de su respectivo aporte.

Art. 3.º El Gobierno de Bolivia no tendrá derecho á intervenir en las tarifas del ferrocarril en la sección que le corresponde, durante la administración argentina hasta tanto que la línea no produzca un rendimiento de seis por ciento de los capitales empleados; pero los trasportes que se hagan por cuenta del Gobierno Boliviano dentro de su territorio, lo serán con un cincuenta por ciento de rebaja sobre las tarifas ordinarias.— Esta franquicia que comprende tanto el pasaje de las personas como el transporte del material de carga, se conservará en la misma forma á favor del Gobierno Argentino una vez que la línea pase á poder de Bolivia.— Además, se conducirán gratuitamente con igual reciprocidad, las valijas de la correspondencia que se despachen por las oficinas de correos, otorgándose pasaje libre á los conductores de aquéllas y á los funcionarios judiciales ó de policía que fueran á practicar diligencias socre delitos cometidos en las estaciones ó en los trenes ó sobre accidentes ocurridos en la línea.

Art. 4.º Quedan así modificados los artículos 5.º, 6.º, 7.º y 8.º de la Convención Ferroviaria de 30 de Junio de 1894.

En fe de lo cual, los Plenipotenciarios de la República Argentina y de la República de Bolivia firmaron el presente acuerdo, en doble ejemplar, y le pusieron sus respectivos sellos, en Buenos Aires, 11 de Diciembre de 1902.

(L. S.) *Juan C. Carrillo.*
(L. S.) *Luis M. Drago.*

27.

GRÈCE, JAPON.

Traité d'amitié, de commerce et de navigation; signé à Athènes, le 20 mai 1899.*)

Ephimeris du 11 septembre 1899.

Treaty of amity, commerce and navigation.

His Majesty the King of the Hellenes and His Majesty the Emperor of Japan, being equally animated by a desire to establish upon a firm and lasting foundation, relations of friendship and commerce between their respective States and subjects, have resolved to conclude a treaty of amity, commerce and navigation, and have for that purpose named their respective plenipotentiaries, that is to say:

His Majesty the King of the Hellenes, M. Athos Romanos, Knight of the Royal Order of the Saviour His Majesty's Minister for Foreign Affairs, and His Majesty the Emperor of Japan, M. Makino Nobuaki Jushii, third class of the Imperial Order of the Sacred Treasure, His Majesty's Envoy Extraordinary and Minister Plenipotentiary; who, having communicated to each other their respective full powers, and found them in good and due form, have agreed upon the following articles.

Article 1.

There shall be firm and perpetual peace and amity between the Kingdom of Greece and the Empire of Japan, and their respective subjects.

Article 2.

His Majesty the King of the Hellenes may, if He sees fit, accredit a diplomatic agent to Japan, and His Majesty the Emperor of Japan, may equally, if He thinks proper, accredit a diplomatic agent to Greece; and each of the High contracting parties shall have the right to appoint consuls general, consuls, vice consuls and consular agents, to reside in all

*) Les ratifications ont été échangées à Rome, le 9/21 septembre 1899.

the ports and places within the territories and possessions of the other contracting party, where similar consular officers of the most favored nation are permitted to reside; but before any consul general, consul, vice consul or consular agent shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent.

The diplomatic and consular officers of each of the two High contracting parties shall, subject to the stipulations of this treaty, enjoy in the territories and possessions of the other whatever rights, privileges, exemptions, and immunities which are, or shall be granted there to officers of corresponding rank of the most favored nation.

Article 3.

There shall be between the territories and possessions of the two High contracting Parties reciprocal freedom of commerce and navigation. The subjects respectively, of each of the High contracting parties shall have the right to come freely and securely with their ships and cargoes to all places, ports and rivers, in the territories and possessions of the other, where subjects or citizens of the most favored nation are permitted so to come; they may remain and reside at all the places or ports where subjects or citizens of the most favored nation are permitted to remain and reside, and they may there hire and occupy houses and warehouses, and may there trade by wholesale or retail in all kinds of products, manufactures and merchandise of lawful commerce.

In all that concerns the acquisition, enjoyment and disposition of property of all kinds, the subjects of one of the High contracting parties shall be placed in the territories and possessions of the other, on a footing of equality with the subjects or citizens of the nation most favored.

Article 4.

The High contracting parties agree that, in all that concerns residence, travel, commerce and navigation, any privilege, favor, or immunity which either contracting party has actually granted, or may hereafter grant, to the government, ships, subjects, or citizens of any other state, shall be extended immediately and unconditionally to the government, ships, subjects or citizens of the other contracting party, it being their intention that the trade and navigation of each country shall be placed, in all respects, by the other on the footing of the most favored nation.

Article 5.

No other or higher duties shall be imposed on the importation into Greece of any article, the produce or manufacture of Japan, and, reciprocally, no other or higher duties shall be imposed on the importation into Japan of any article the produce or manufacture of Greece, than are or shall be payable on the importation, for the same purpose, of the like article being the produce or manufacture of any other foreign country. Nor shall any other or higher duties or charges be imposed in the territories or

possessions of either of the two High contracting parties on the exportation of any article to the territories or possessions of the other, than such as are or may be payable on the exportation of the like article to any other foreign country. No prohibition shall be imposed on the importation of any article, the produce or manufacture of the territories or possessions of either of the High contracting parties into the territories or possessions of the other, which shall not equally extend to the importation of the like article being the produce or manufacture of any other country. Nor shall any prohibition be imposed on the exportation of any article from the territories or possessions of either of the High contracting parties to the territories or possessions of the other, which shall not equally extend to the exportation of the like article to the territories of all other nations.

Article 6.

In all that relates to transit, warehousing, bounties, facilities and drawbacks, the subjects of each of the High contracting parties, shall in the territories and possessions of the other, be placed in all respects upon the most favored nation footing.

Article 7.

No other or higher duties or charges on account of tonnage, light or harbor dues, pilotage, quarantine, salvage in case of damages, or any other similar or corresponding duties or charges of whatever denomination levied in the name or for the profit of government, public functionaries, private individuals, corporations or establishments of any kind, shall be imposed in any of the ports of Greece on vessels of Japan or in any of the ports of Japan on vessels of Greece, than are or may hereafter be payable in like cases in the same ports on vessels of the most favored nation.

Article 8.

The coasting trade of both the High contracting parties is excepted from the provisions of the present treaty. It shall be regulated by the laws, ordinances and regulations of the two countries respectively.

Article 9.

All vessels which, according to hellenic law, are to be deemed hellenic vessels, and all vessels which, according to japanese law are to be deemed japanese vessels, shall, for the purposes of the present treaty, be deemed hellenic and japanese vessels respectively.

Article 10.

Any ship of war or merchant vessel of either of the High contracting parties which may be compelled by stress of weather, or by reason of any other distress, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary supplies, and to put to sea again, without paying any dues other than such as would be payable

by national vessels. In case, however, the master of a merchant vessel should be under the necessity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any ship-of-war or merchant vessel of one of the contracting parties should run aground or be wrecked upon the coasts of the other, such stranded or wrecked ship or vessel, and all parts thereof, and all furnitures and appurtenances belonging thereunto, and all goods and merchandises saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents, when claimed by them. If such owners or agents are not on the spot, the same shall be delivered to the respective consuls general, consuls, vice-consuls or consular agents upon being claimed by them within the period fixed by the laws of the country, and such consular officers, owners or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the case of a wreck of a national vessel.

The goods and merchandise saved from the wreck shall be exempt from all the duties of the customs unless cleared for consumption, in which case they shall pay the ordinary duties.

When a ship or vessel belonging to the subjects of one of the contracting parties is stranded or wrecked in the territories of the other, the respective consuls general, consuls, vice-consuls and consular agents, shall be authorized, in case the owner or master, or other agent of the owner, is not present, to lend their official aid in order to afford the necessary assistance to the subjects of the respective states. The same rule shall apply in case the owner, master or other agent is present, but requires such assistance to be given.

Article 11.

The subjects and vessels of Japan resorting to Greece, or to the territorial waters thereof, shall, so long as they there remain, be subject to the laws of Greece, and to the jurisdiction of Greece; and in the same manner, the subjects and vessels of Greece resorting to Japan and to the territorial waters of Japan shall be subject to the laws and jurisdiction of Japan.

Article 12.

The subjects of each of the High contracting parties shall, in the territories and possessions of the other respectively enjoy perfect protection for their persons and property; they shall have free and open access to the courts of justice for the prosecution and defence of their rights, and they shall, equally with native subjects, be at liberty to employ advocates, attorneys or agents to represent them before such courts of justice.

They shall also enjoy entire liberty of conscience and subject to the laws, ordinances and regulations for the time being in force, shall enjoy the right of private or public exercise of their worship, and also the right

of burying their respective countrymen according to their religious customs, in such suitable and convenient places as may be established and maintained for the purpose.

Article 13.

In regard to billeting, forced or compulsory military service, whether by land or sea, contributions of war, military exactions or forced loans, the subjects of each of the two High contracting parties shall in the territories and possessions of the other, enjoy the same privileges, immunities and exemptions as the subjects or citizens of the nation most favored in these respects.

Article 14.

The dwellings, warehouses and shops of the subjects of each of the High contracting parties in the territories and possessions of the other, and all premises appertaining there to, destined for purposes of residence or commerce, shall be respected.

It shall not be allowable to proceed to make a search of, or a domiciliary visit to such dwellings and premises, or to examine books, papers, or accounts, except under the conditions and with the forms prescribed by the laws, ordinances and regulations for subjects of the country.

Article 15.

The present treaty shall take effect immediately after the exchange of ratifications and shall continue in force for the period of twelve years from the date it goes into operation.

Either of the two High contracting parties shall have the right at any time after eleven years shall have elapsed from the date this treaty takes effect, to give notice to the other of its intention to terminate the same and at the expiration of twelve months after such notice is given this treaty shall wholly cease and determine.

Article 16.

The present treaty shall be signed in duplicate in the Greek, Japanese and English languages and in case there should be found any discrepancy between the Greek and Japanese texts, it will be decided in conformity with the English texts, which is binding upon both governments.

Article 17.

The present treaty shall be ratified by the two contracting parties and the ratifications shall be exchanged at Rome as soon as possible (1).

In witness whereof the respective plenipotentiaries have signed this treaty and here unto affixed their respective seals.

Done in sextuplicate at Athens this first day of the sixth month of the thirty second year of Meiji, corresponding to the twentieth day of May of the year one thousand eight hundred and ninety nine of the Christian era.

(L. S.) (signé) *A. Romanos.* (L. S.) (signé) *N. Makino.*

28.

ARGENTINE, BRÉSIL.

Convention pour la protection réciproque des marques de fabrique et de commerce; signée à Rio de Janeiro, le 30 octobre 1901.*)

República Argentina. Tratados, Convenciones etc. Publicación oficial. II (1911), p. 677.

Los Presidentes de la República Argentina y de los Estados Unidos del Brasil, deseando asegurar á los Industriales y Comerciantes de los países la protección de las leyes que garanten la propiedad de las Marcas de fábrica y de Comercio, resolvieron celebrar para ese fin un convenio y nombraron sus Plenipotenciarios, á saber:

El Presidente de la República Argentina al Doctor D. Manuel Gorostiaga, Enviado Extraordinario y Ministro Plenipotenciario de la misma República en el Brasil.

El Presidente de la República de los Estados Unidos del Brasil al Dr. Olyntho Máximo de Magalhaes, Ministro de Estado de las Relaciones Exteriores.

Los cuales, cambiados sus plenos poderes que hallaron en buena y debida forma, convinieron lo siguiente:

Artículo 1.º Los Industriales y Comerciantes de la República Argentina y los Industriales y Comerciantes de los Estados Unidos del Brasil que tuvieran registradas sus Marcas de fábrica ó de Comercio, de conformidad con las prescripciones legales, podrán igualmente registrarlas en uno ú otro país, llenando las condiciones establecidas por las leyes y reglamentos de aquel donde se haga el registro.

Art. 2.º El presente convenio, seguidos los trámites legales, será ratificado y las ratificaciones serán cambiadas en la Ciudad de Rio Janeiro en el más breve plazo posible. Fenecerá seis meses después de la data en que una de las dos Altas Partes Contratantes haya comunicado á la otra su resolución de ponerle término.

En fe de lo cual, los respectivos Plenipotenciarios firman y sellan el mismo convenio en dos ejemplares, siendo cada uno de ellos escrito en los dos idiomas.

Fecho en la Ciudad de Rio de Janeiro á los treinta días del mes de Octubre de 1901.

(L. S.) *Manuel Gorostiaga.*
(L. S.) *Olyntho Máximo de Magalhaes.*

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*) Les ratifications ont été échangées à Rio de Janeiro, le 10 janvier 1906.

29.

SUÈDE ET NORVÈGE, DANEMARK.

Echange de notes concernant la procédure à suivre lors de la collation des décorations; des 23 mai et 24 juin 1903.

Copie officielle.

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a)

Extrait d'une lettre, datée Stockholm le 23 mai 1903 et adressée au ministre de Danemark à Stockholm par le ministre des affaires étrangères de Suède et de Norvège.

Jag begagnar tillfället att förnya min förut muntligen uttalade önskan, att i hvarje särskildt fall, när en svensk eller norrman kommer i fråga till erhållande af en dansk dekoration, blifva underrättad om anledningen därtill, likasom jag alltid, när en dansk undersåte föreslås till erhållande af något ynnestbevis af min Suverän, genom beskickningen i Köpenhamn bringar till kungl. danska regeringens kännedom, hvarför vederbörande ansetts böra komma i åtanke.

Mottag, etc. *Alfr. Lagerheim.*

b)

Stockholm, den 24 Juni 1903.

Herr Udenrigsminister,

Efterat have forelagt Udenrigsminister Deuntzer det i Deres Excellences Skrivelse til mig af 23 Mai d. A. udtalte Ønske om, at for Fremtiden, naar der opstaar Spørgsmaal om Decorering af svenske eller norske Undersaatter med danske Ordener, den Regel iagttages, at ikke blot, som hidtil, den paagældende Regjerings Samtykke forud indhentes med Hensyn til selve Decoreringen, men at ved denne Lejlighed tillige tilkjendegives de Omstændigheder, der have fremkaldt den Kongelige Regjerings Ønske om at tilstaa en saadan Hædersbevisning, har jeg nu modtaget Instruction om at meddele Deres Excellence, at ligesom en saadan Regel allerede følges af det Kongelige Svensk-Norske Udenrigsdepartement med Hensyn til Decorering af danske Undersaatter med svenske og norske Ordener, saaledes vil den tilsvarende Fremgangsmaade herefter ogsaa finde Sted fra min Regjerings Side.

Modtag etc. *W. Sponneck.*

H. E. Udenrigsminister Lagerheim
etc. etc. etc.

30.

ARGENTINE, URUGUAY.

Convention pour simplifier les formalités relatives aux commissions rogatoires; signée à Montevideo, le 7 septembre 1903.*)

República Argentina. Tratados, Convenciones etc. Publicación oficial. IX (1912), p. 612.

Reunidos en el Ministerio de Relaciones Exteriores de la República Oriental del Uruguay, Su Excelencia el Sr. Enviado Extraordinario y Ministro Plenipotenciario de la República Argentina, Dr. Mariano Demaría y Su Excelencia el Sr. Ministro del ramo Dr. José Romeu, con el objeto de simplificar los requisitos establecidos en el Título II; artículo 3.º y 4.º del Tratado de Derecho Procesal sancionado en el Congreso Sudamericano de Derecho Internacional Privado de Montevideo el 11 de Enero de 1889, en la parte que se refiere á la legalización de exhortos, cartas rogatorias y demás documentos procedentes de uno y otro país, y después de comunicados sus Plenos Poderes que fueron hallados en buena y debida forma, han convenido en lo siguiente:

Artículo 1.º Las comisiones rogatorias en materia civil ó criminal, dirigidas por los Tribunales de la República Argentina á los de la República Oriental del Uruguay, ó por los de la República Oriental del Uruguay, á los de la República Argentina, no necesitarán de la legalización de las firmas para hacer fe, cuando sean cursadas por intermedio de los Agentes Diplomáticos, y, á falta de éstos, por los Consulares.

Art. 2.º Si las comisiones rogatorias fueren libradas á petición de parte interesada, se indicará en las mismas la persona que ante las autoridades del país á que se dirijan, se encargará de su diligenciamiento y abonará los gastos que este ocacionare.

Art. 3.º Cuando las comisiones rogatorias fueran dirigidas de oficio, los gastos que ocasione su diligenciamiento, serán á cargo del gobierno del país que las reciba.

Art. 4.º La presente Convención tendrá una duración indefinida; pero podrá ser revocada por cualquiera de las Altas Partes Contratantes, denunciándola con un año de anticipación.

Art. 5.º El canje de las ratificaciones de esta Convención, se realizará en la ciudad de Buenos Aires á la mayor brevedad posible.

En fe de lo cual los Plenipotenciarios la firman y sellan en doble ejemplar, en la ciudad de Montevideo á los siete días del mes de Septiembre del año 1903.

(L. S.) *Mariano Demaría.*
(L. S.) *José Romeu.*

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*) Les ratifications ont été échangées à Buenos Aires, le 4 octobre 1907.

31.

ARGENTINE, PANAMA.

Correspondance concernant la reconnaissance de la République de Panama; des 2 janvier et 2 mars 1904.

República Argentina. Tratados, Convenciones etc. Publicación oficial. IX (1912), p. 59.

José Agustín Arango, Tomás Arias y Federico Boyd, Miembros de la Junta de Gobierno Provisional de la República de Panamá. A Su Excelencia: Julio A. Roca, Presidente de la República Argentina.

Grande y buen amigo:

Deseosos de obtener el reconocimiento oficial de la República de Panamá por todas sus hermanas de la América Latina, nos permitimos dirigiros la presente carta, en la esperanza de alcanzar respuesta favorable á nuestro propósito.

El Ministro de Relaciones Exteriores de nuestra República envió al del mismo ramo de la vuestra el 10 de Noviembre último, una nota en la que por su medio ponía en conocimiento de vuestro Gobierno que el día 3 de ese mes el Departamento de Panamá, por medio de acción popular incruenta, se separó de la República de Colombia y se constituyó en Nación independiente bajo la denominación de „República de Panamá", quedando su Gobierno á cargo de un triunvirato denominado „Junta de Gobierno Provisional".

En la citada nota se exponía que como todas las poblaciones del territorio Panameño aceptaban unanimemente esa transformación política y no existía oposición á ella dentro de la República de Panamá, reinando el orden más completo; que como el nuevo Gobierno ajustaba sus actos á las prácticas de las naciones civilizadas y cumplía y estaba dispuesto á cumplir todos los tratados públicos que hasta el 3 de Noviembre existían entre Colombia y los otros países, en cuanto pudieran ser cumplidos sin afectar la soberanía é independencia de la República; y, finalmente, que como las únicas tropas colombianas que hubieran podido oponerse al movimiento se retiraron voluntariamente de nuestro territorio el 5 del mismo mes, era de esperarse que vuestro Gobierno reconociera oficialmente la existencia de la República de Panamá, lo que se solicitaba formalmente, y entrara en relaciones con ella, como lo habían hecho ya los Estados Unidos de América.

Con posterioridad al reconocimiento de los Estados Unidos lo han efectuado sucesivamente Francia, Austria-Hungría, China, Alemania, Rusia, Dinamarca, Bélgica, Perú, Inglaterra, Cuba, Italia, Costa Rica, Japón, Suecia y Noruega y Suiza, habiéndolo hecho ayer Nicaragua, iniciando así feliz-

mente el nuevo año de 1904, durante cuyo curso deseamos al pueblo argentino toda especie de venturas.

Creemos que reconocida nuestra República por tantos países, reinando en ella el orden más completo y teniendo el invariable propósito de vivir en paz con todas las otras Naciones y cultivar las más amistosas relaciones con la República Argentina, confiamos en que su Gobierno, tan atinadamente enconmendado á vuestra distinguida personalidad, satisfará nuestras justas esperanzas.

Dada en Panamá, á 2 de Enero de 1904.

Vuestros buenos amigos,

José Agustín Arango,
Tomás Arias.
Federico Boyd.
El Ministro de Relaciones Exteriores:
F. V. de la Espriella.

Julio A. Roca, Presidente Constitucional de la República Argentina, á S. E. el Sr. Presidente de la República de Panamá, Dr. Manuel Amador Guerrero.

Grande y buen amigo:

He tenido el honor de recibir en la fecha la carta autógrafa de los Sres. Miembros de la Junta de Gobierno Provisional de la República de Panamá, en la que, al comunicar que el Departamento de Panamá se separó de la República de Colombia por medio de acción popular incruenta, manifiesta los deseos de obtener el reconocimiento oficial de la República de Panamá por todas sus hermanas de la América Latina.

En respuesta, me es satisfactorio expresar á V. E. que, teniendo conocimiento de la existencia del nuevo Estado, armónica con los requisitos impuestos por el derecho y prácticas internacionales, y merecido V. E. la confianza de sus ciudadanos para regir los destinos de ese País, el Gobierno Argentino se complace en iniciar y mantener relaciones oficiales con el Gobierno de la República de Panamá.

Al felicitar á V. E. por la honrosa distinción de que ha sido objeto de parte de sus conciudadanos, hago sinceros votos por la prosperidad de la nueva Nación cuyos destinos preside.

Dada en Buenos Aires, Capital de la República Argentina, á los 2 días del mes de Marzo de 1904.

Vuestro buen amigo,

Julio A. Roca.
J. A. Terry.

32.

SUÈDE ET NORVÈGE, DANEMARK.

Echange de notes concernant la communication réciproque des actes d'état civil; des 24 février et 29 juillet 1904.

Copie officielle.

Kongl. Svensk-Norska
Beskickningen.

Copenhague le 24 février 1904.

Monsieur le Ministre,

Par une ordonnance Royale du 6 août 1894 il a été arrêté, par rapport aux sujets et citoyens étrangers qui séjournent ou sont domiciliés en Suède, que les pasteurs des paroisses de l'église luthérienne ou bien les directeurs des autres communautés réligieuses sont tenus à envoyer au Burau Central de Statistique, aussitôt que possible et indépendamment des extraits des registres paroissiaux qui devront être communiqués annuellement, des certificats de naissance, de mariage (réligieux ou civil) et de décès, ainsi que des certificats constatant les relevailles d'une femme mariée ou fiancée et enfin des certificats de reconnaissance d'enfants naturels; lorsqu'il s'agit de décès, le certificat devra être muni, en tant qu'il y a lieu, de renseignements sur la succession du défunt, le nom, la profession et le domicile de ses parents et sur les héritiers que le défunt aura laissé dans le Royaume.

Il a en outre été prescrit, par une décision Royale en date du 4 décembre dernier, que les certificats mentionnés plus haut et concernant des sujets étrangers, seront à mesure qu'ils parviendront au bureau central de statistique remis par ses soins et sans retard directement aux consulats des pays respectifs à Stockholm, mais lorsqu'il s'agit d'un certificat concernant le ressortissant d'un Etat qui n'a pas de consulat dans cette ville, au ministère des affaires étrangères pour être communiqué au Gouvernement de l'Etat en question.

D'ordre de mon Gouvernement, j'ai l'honneur de porter ce qui précède à la connaissance du Gouvernement Royal de Danemark en Le priant de vouloir bien me faire savoir s'il est disposé de Son côté à titre de réciprocité à prendre des mesures correspondantes afin d'assurer, d'une manière efficace, la communication régulière des actes d'état civil dressés sur le territoire danois et concernant les sujets des Royaumes-Unis.

Veuillez agréer, Monsieur le Ministre, les assurances renouvelées de ma haute considération.

(Sign.) *Gude.*

Udenrigsministeriet.

København, den 26' Juli 1904.

Hr. Minister,

I behagelig Skrivelse af 24' Februar d. A. har De underrettet mig om, at Attester vedrørende i Sverig værende danske Undersaatters Fødsel, Ægteskab og Død samt første Kirkegang efter Barselfærd og Anerkendelse af uægte Børn fremtidig ville blive tilstillede den Kgl. Generalkonsul i Stockholm. Samtidig har De forespurgt, hvorvidt den Kgl. Regering maatte være tilbøjelig til for sit Vedkommende at træffe en tilsvarende Foranstaltning.

Saaledes foranlediget har jeg herved den Ære at meddele, at der er truffet Foranstaltning til at tilvejebringe Dødsattester for svenske og norske Undersaatter, der afgaa ved Døden her i Landet, indeholdende, saa vidt mulig, Oplysninger om den Paagældendes fulde Navn, Alder, Hjem- eller Fødested, Efterladenskab og Arvinger samt Forældres Navn, Stilling og Hjemsted. Hvad andre Attester angaar, beklager jeg, at den bestaaende Ordning for Tiden er til Hinder for at imødekomme det af Hr. Kammerherren udtalte Ønske; en Reform af denne Ordning er imidlertid under Overvejelse og derunder skal ogsaa det af Dem rejste Spørgsmaal blive taget i Betragtning.

Modtag, Hr. Minister, Forsikringen om min udmærkede Højagtelse.

(undert.) *Deuntzer.*

Hr. Kammerherre Gude,
Kgl. Svensk og Norsk Minister.

33.

ARGENTINE, CHILI.

Convention relative à l'admission des artistes de chaque pays dans les salons des beaux-arts de l'autre; signée à Buenos Aires, le 7 septembre 1904.*)

República Argentina. Tratados, Convenciones etc. Publicación oficial. VII (1911), p. 338.

Reunidos en la Sala del despacho del Ministerio de Relaciones Exteriores y Culto de la República Argentina, Sus Excelencias el Dr. José A. Terry, Ministro del ramo y el Sr. José Francisco Vergara Donoso, Enviado Extraordinario y Ministro Plenipotenciario de la República de Chile, animados del deseo de fomentar las relaciones artísticas entre ambos Países y de obtener recíprocos estímulos para los exponentes en los con-

*) Les ratifications ont été échangées à Buenos Aires, le 30 novembre 1908.

cursos que anualmente celebran los Salones de Bellas Artes de Buenos Aires y Santiago, debidamente autorizados por sus respectivos Gobiernos, han convenido en lo siguiente:

Artículo 1.º Los artistas Argentinos serán admitidos en los concursos anuales del Salón de Bellas Artes de Santiago, en las mismas condiciones que los exponentes Chilenos. Y recíprocamente los artistas Chilenos serán admitidos en los concursos del Salón de Bellas Artes de Buenos Aires, en las mismas condiciones que los exponentes Argentinos.

Art. 2.º Las obras artísticas destinadas á ser expuestas en dichos Salones de Bellas Artes, quedan libres del pago de los derechos de internación en las Aduanas de uno y otro país.

El presente Convenio será ratificado y las ratificaciones canjeadas en la ciudad de Buenos Aires, tan pronto como fuere posible.

En fe de lo cual, los infrascriptos firman y sellan en doble ejemplar el presente Convenio en la Ciudad de Buenos Aires, á los siete días del mes de Septiembre del año mil novecientos cuatro.

(L. S.) *J. A. Terry.*
(L. S.) *J. F. Vergara Donoso.*

34.

GRANDE-BRETAGNE, ITALIE.

Echange de notes concernant le cabotage, en Italie, des navires britanniques; des 18 et 20 septembre 1904.

British and Foreign State Papers C (1911), p. 542.

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(1) The Under Secretary of State for Foreign Affairs of Italy to the British Chargé d'Affaires at Rome.

(Translation.)

Ministry of Foreign Affairs, Rome,
September 18, 1904.

M. le Chargé d'Affaires,

You had the goodness to inform me that His Britannic Majesty's Government had no objection to the postponement of the signature of the Convention between Italy and England guaranteeing reciprocally to the respective subjects of the two States the advantages of the coasting trade in the ports of the other country, on condition that the *status quo*, by which British ships have hitherto enjoyed the rights of the coasting trade

in the ports of the Kingdom of Italy, be prolonged *sine die*, notwithstanding the dispositions of the Law of July, 1904.

I am happy to be able to give you the desired assurance to this effect and to inform you at the same time that the necessary instructions in this sense have already been despatched to the proper maritime and customs authorities.

I have, &c.,

G. Fusinato.

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(2) The British Chargé d'Affaires at Rome to the Under Secretary of State for Foreign Affairs of Italy.

British Embassy, Rome.
September 20, 1904.

M. le Sous Secrétaire d'Etat,

I have the honour to acknowledge with my best thanks the receipt of your Excellency's note of the 18th instant, assuring me that the *status quo* under which the British flag is admitted to the privileges of the coasting trade in Italy will be prolonged *sine die*, notwithstanding the dispositions of the Law passed in July last, which reserves this privilege, in the absence of special Conventions with other Powers, to the Italian flag, and at the same time informing me that the necessary instructions in this sense have been given to the maritime and customs authorities.

I shall await a further communication from the Ministry for Foreign Affairs when the time arrives at which the Italian Government shall judge it opportune to proceed to the signature of the Convention which has been agreed upon.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration,

I have, &c.,

Rennell Rodd.

35.

GRANDE-BRETAGNE, ITALIE.

Echange de notes en vue de déterminer l'importance de l'Arrangement conclu, le 5 mars 1905, entre l'Italie et le Mullah;*) du 19 mars 1907.

British and Foreign State Papers C (1911), p. 543.

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(1) Sir Edward Grey to Count de Bosdari.

Foreign Office, March 19, 1907.

Sir,

I have the honour to transmit herewith a Memorandum, recording the supplementary and explanatory Agreement which has been arrived at between the British and Italian Governments, in order to elucidate certain points in the Agreement of the 5th March, 1905, between the Italian Government and Seyid Mahamed-bin-Abdulla.

I should be glad if you would address to me a note, enclosing a Memorandum drawn up in identical terms.

I have, &c.,

E. Grey.

Inclosure.

Memorandum.

It is to be understood that where the word „tribes" is used in the Agreement of the 5th March to describe the followers of the Seyid Sheikh Mahamed-bin-Abdulla, this word is intended to denote only any individuals belonging to the Somali tribes who, for the time being, are with the Mullah, and that therefore the word „tribes" must be considered to denote merely followers.

2. With reference to the clause in Art. 1 of the Agreement of the 5th March relating to the relations between the Government of Abyssinia and its dependents on the one hand, and the Dervishes on the other hand, and in order to avoid any misunderstanding which may arise in translating the original Arabic version of the Agreement of the 5th March, it is to be understood that neither the British nor the Italian Government accepts any responsibility for the relations between the Dervishes and the Abyssinian Government or their dependents. The responsibility of the Italian and British Governments remains limited to the tribes and people over whom they claim control.

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*) V. ci-dessous, No. 36.

3. With reference to the 3rd clause of Art. 1, it is to be understood that when the interests of British tribes are concerned, differences between the Seyid's people and the British tribes will be referred to local Representatives of both the Italian and the British Governments, and in the event of these Representatives being unable to arrive at a satisfactory agreement, the matters in dispute will be referred to their respective Governments.

It is further agreed that, except on non-contentious matters, such as the interchange of friendly communications and other matters where, in order to avoid undesirable delay, direct communication is considered necessary, all communications between the British authorities of the Somaliland Protectorate and the Mullah Seyid Mahamed Abdulla, and *vice versâ*, shall pass through the Italian authorities at Aden.

Copies of all correspondence exchanged direct in the exceptional cases above mentioned shall be forwarded immediately to the italian authorities at Aden.

4. With reference to the clause in Art. 4, which defines the limits of pasturage granted by the British Government to the Dervishes, the pasture of Baran shall be included, between Tifafle and Damot; and, moreover, provided it is found by subsequent local inquiry that there are no obstacles to the following alteration being made, the line defining the limits of pasturage accorded to the Dervishes may be extended into the Italian territory so as to reach the pools of Kurmis. This arrangement is made in order to obviate direct contact between the Dervishes and the British tribes, the zone between this line and Bohotle being considered as neutral.

Taking the above modifications into consideration, the line of pasturage up to which the Dervishes may graze from the south shall be amended to read as follows:

From Halin to Hodin, Hodin to Tifafle, Tifafle to Baran, Baran to Damot, Damot to Kurmis.

Anglo-Italian Understanding as regards Customs Dues on Somali Coast.

5. It is recognized that on the Somali Coast there shall be a cordial common understanding between the British and Italian Protectorates, with regard to customs dues and a general control of the coast line, and that whenever either of the above Governments may find it necessary to impose provisional measures of punitive restriction on the commerce of any of their tribes, the other Government shall also, on being requested to do so, and for good cause shown, adopt similar restrictions against the defaulting tribe.

As regards customs dues, it is, however, recognized that, as direct Italian administration does not as yet exist on the Mijjertein Coast, the Italian Government is at liberty, subject to the provisions of any general Treaties which may have already received the assent of both Governments, to impose customs dues whenever and in such a manner as it may con-

sider fit, but it will remain understood that so far as present customs arrangements between the two Administrations on the Somali Coast are concerned, the arrangements will be that, whenever there is a difference between the local customs dues of the two Administrations, the less favoured tribes will be obliged to pay to the Administration through whose territory those tribes elect to trade the same dues which they would have had to pay had they elected to trade through the territory of their own Government.

The above conditions are intended to prevent evasion of customs dues and supervisions.

*Position of Bender Ziadeh.**)

6. A complication having recently arisen in regard to the geographical position of Bender Ziadeh, and whereas this town was formerly determined to be to the eastward of the 49° meridian (Greenwich), and therefore in the Italian Protectorate, but has now been shown by astronomical observations to be on the west of the above meridian, and therefore within the British sphere, it is agreed by the British Government that this alteration in the location of the 49° meridian shall in no way affect the arrangements formerly agreed upon as to Bender Ziadeh.

Compensation to the Italian Mijjertein Tribes.

7. It being admitted by the British Government that it is possible that the passage of the British troops and their dependents or auxiliaries close to the pastures of the Italian Mijjertein tribes may have had the effect of disorganising the arrangements for pasturing the flocks, and that, in consequence, the Mijjertein may possibly have suffered a portion at least of the losses which they represent they have suffered as a result of the operations, and having in view the desire of the British Government that no cause for dissatisfaction shall remain to disturb the future peaceful relations of the Italian tribes, and those under British control, the British Government agrees to place at the disposal of the Italian Government a sum of 4,000*l.* in satisfaction of all past claims against British expeditions, whether arising in relation to the operations of the last British expedition or any previous British expeditions.

Foreign Office, 20th February, 1907.

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(2) Count de Bosdari to Sir Edward Grey.

(Translation.)

Italian Embassy, London, March 19, 1907.

Your Excellency,

I have the honour to acknowledge the receipt of your Excellency's note of to-day's date, enclosing a Memorandum containing the supple-

*) See Art. II of Agreement with France of the $\frac{2nd}{9th}$ February, 1888 (N. R. G. 2. s. XX, p. 757).

mentary and explanatory Agreement concluded between the British and Italian Governments for the purpose of elucidating certain points in the Agreement of the 5th March, 1905, between the Italian Government and Seyid Mahamed-bin-Abdulla.

By order of my Government I transmit herewith a Memorandum drawn up in identical terms and have, &c.,

A. de Bosdari.

36.

ITALIE, MULLAH DES SOMALIS.

Traité de paix et de protection; signé à Illig, le 5 mars 1905.*)

British and Foreign State Papers C (1911), p. 547.

Agreement of Peace and Protection between the Italian Government and Sheikh Mohammed-ben-Abdullah (Mullah). Signed at Illig, March 5, 1905.

(Translation from the Arabic.)

Praise to the Merciful God!

In accordance with the common desire of the Contracting Parties to afford peace and tranquility to all Somalis, Cavaliere Pestalozza, the special Envoy acting under the authority of the Italian Government, and Saïd Mohammed-ben-Abdullah, acting for himself and for the Chiefs and Notables of the tribes following him, have agreed on the complete acceptance of the following clauses and conditions:

1. There shall be peace and lasting accord between the above-mentioned Saïd Mohammed, with all the Dervishes dependent on him, and the Government of Italy and all its dependents among the Somali Mijjerteins and others.

In view of this and in relation thereto there shall also be peace and accord between Saïd Mohammed, with his above-mentioned Dervishes, and the British Government, with all its dependents among the Somalis and others. So, likewise, shall there be peace between the Saïd, with his above-mentioned Dervishes, and the Government of Abyssinia, with all its dependents. The Italian Government guarantee and pledge themselves on behalf of their dependents, as also on behalf of the British Government.

Every disagreement or difference between the Saïd and his people and the dependents of the Italian Government, or those for whom the

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*) V. l'Echange de notes entre la Grande-Bretagne et l'Italie du 19 mars 1907; ci-dessus No. 35.

Government have pledged themselves—as, for example, the English and their dependents—shall be settled in a peaceful and friendly manner by means of „erko“ or of Envoys from the two parties under the Presidency of an Italian Delegate, and also in the presence of an English Envoy whenever British interests are concerned.

2. Saïd Mohammed-ben-Abdullah is authorized by the Italian Government to establish for himself and his people a fixed residence at the point most convenient for communication with the sea, between Ras Garad and Ras Gabbe.

This also with the approval of Yusuf Ali*) and of Sultan Osman Mahmud**).

That residence and all its inhabitants shall be under the protection of the Italian Government and under their flag.

If and when the Italian Government so desire, they shall be at liberty to instal in that residence a Representative of Italian nationality, or other person, as Governor, with soldiers and custom-house (or tithes).

Saïd Mohammed shall in every way afford help and support to the Government in all matters, and until the Government appoint a special Representative of their own the said Saïd Mohammed shall be their Procurator.

The government of the tribes subject to him in the interior shall remain in the hands of Saïd Mohammed, and shall be exercised with justice and equity.

Moreover, he shall provide for the security of the roads and the safety of the caravans.

3. In the above-mentioned residence, commerce shall be free for all, subject to the Regulations and Ordinances of the Government. However, from henceforth the importation and disembarkation of fire-arms, cartridges, lead and powder necessary for the same, is prohibited. Saïd Mohammed himself and his people pledge themselves by a formal and complete pledge, as also by oath before God, to prevent the traffic, importation, and disembarkation of slaves and fire-arms whencesoever they may come, whether by sea or land.

Whoever shall infringe this Ordinance shall be liable to such punishment as shall be considered fitting by the Government.

4. The territory assigned to Saïd Mohammed and his followers is that of the Nogal and the Hod comprised within the limits of the Italian sphere of interest†). But in view of the special Agreement between the Governments of Italy and England, after the despatch and return of the „erko“ (Somali delegation) sent to establish peace with the English according to Somali customs, and to settle certain formalities necessary for the general tranquility, the English shall authorize Saïd Mohammed

*) Sultan of Obbia. **) Sultan of the Migertini.

†) This territory lies between the Sultanates of Obbia and the Migertini. The Italian protectorate over it was notified on 20th May, 1889. See „Map of Africa by Treaty,“ page 1124.

and his followers to enter their territories (those of the English) in the country of the Nogal to feed their cattle there according to their former custom.

But the said cattle shall not be permitted to pass beyond the pasturages of the wells enumerated hereafter; they are the wells of Halin, and from these to those of Hodin, and from Hodin to Tifafle, and from Tifafle to Damot*).

In the same manner, also, in the case of the Mijjerteins, there shall be accord and peace between them all and Saïd Mohammed and all his Dervishes.

The question of the pasturages which is at issue between these latter and the Issa Mahmud, as also between them and the Omar Mahmud, shall be settled with the approval and consent of the parties according to former custom.

The lands of Mudug and Galcaio shall continue to belong to Yusuf Ali and his sons.

All questions between the Dervishes and their neighbours shall be referred to the examination and the decision of the Italian Government.

In confirmation of all that is above stated, and as a pledge of the Contracting Parties, this document has been signed in duplicate by Saïd Mohammed-ben-Abdullah for himself and the Dervishes his followers, and by Cavaliere Pestalozza, the authorized Delegate of the Italian Government, at Illig, Sunday, the 28th of the month of Zelheggia, in the year 1322 of the Hegira, corresponding to the 5th March in the year 1905.

I have read the above document, have understood its entire contents, have accepted it all in perfect sincerity, and have signed it—in short, Cavaliere Pestalozza, Representative, knows my state—in good faith.

Sayed Mohammed-ben-Abdullah.
G. Pestalozza.

Illig, 5th March, 1905.

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*) This line was modified by Agreement between Great Britain and the Italian Government of 19th March, 1907, as follows: — From Halin to Hodin, Hodin to Tifafle, Tifafle to Baran, Baran to Damot, Damot to Kurmis. (V. ci-dessus p. 312.)

37.

NORVÈGE, ITALIE.

Echange de notes concernant la signification gratuite des actes judiciaires; des 9 et 11 février 1905.

Recueil des Traités de la Norvège (1907), p. 402.

Stockholm, le 9 février 1905.

Monsieur le Comte.

Vous avez bien voulu faire savoir à mon prédécesseur que les actes judiciaires provenant de l'étranger sont notifiés gratuitement en Italie.

En même temps Vous avez exprimé le désir du Gouvernement de Sa Majesté le Roi d'Italie qu'il fût désormais convenu entre la Norvège et l'Italie que la simple signification d'actes judiciaires entre les deux pays ne donnât lieu à aucun remboursement de frais.

J'ai l'honneur de porter à Votre connaissance que le Gouvernement norvégien accède volontiers à cette proposition et que, par conséquent, les actes judiciaires, émanés des tribunaux italiens et dont la signification a été demandée en conformité de la convention relative à certains points du droit international privé se rapportant à la procédure civile signée à la Haye le 14 novembre 1896,*) seront à l'avenir, à titre de réciprocité, signifiés gratuitement en Norvège.

Je Vous prie de vouloir bien accuser la réception de la présente en constatant que la réciprocité est ainsi établie.

Veuillez agréer, etc.

Gyldenstolpe.

Monsieur le Comte de Foresta,
Envoyé Extraordinaire et Ministre Plénipotentiaire
de S. M. le Roi d'Italie,
etc. etc. etc.

Stockholm, le 11 février 1905.

Monsieur le Ministre.

J'ai eu l'honneur de recevoir la note par laquelle Votre Excellence a bien voulu porter à ma connaissance que le Gouvernement Norvégien accédait volontiers à la proposition du Gouvernement Royal d'Italie qu'il fût désormais convenu entre la Norvège et l'Italie que la simple signification

*) V. N. R. G. 2. s. XXIII, p. 398; XXV, p. 217.

d'actes judiciaires entre les deux pays ne donnât lieu à aucun remboursement de frais et que, „par conséquent les actes judiciaires, émanés des tribunaux italiens et dont la signification a été demandée en conformité de la convention relative à certains points de droit international privé se rapportant à la procédure civile signée à la Haye le 14 novembre 1896 seront à l'avenir, à titre de réciprocité, signifiés gratuitement en Norvège".

Par le contenu de cette réponse je suis heureux de constater et je suis autorisé à déclarer à Votre Excellence que la réciprocité est ainsi établie entre l'Italie et la Norvège pour la gratuité de la signification des actes judiciaires.

Veuillez agréer, etc.

A. de Foresta.

à
Son Excellence le Comte de Gyldenstolpe,
Ministre des Affaires Etrangères
etc. etc. etc.

38.

EGYPTE, MONTÉNÉGRO.

Arrangement de commerce et de navigation; réalisé par un Echange de notes du 30 mars au 21 juillet 1905.

British and Foreign State Papers C (1911), p. 902.

No. 1.

Cettigné, le 30 mars, 1905.

Monsieur le Ministre,

J'ai l'honneur de vous adresser cette note par laquelle je tiens, conformément à la décision du Conseil d'Etat, de porter à Votre connaissance que le Gouvernement Princier, qui est très désireux d'établir de bonnes et amicables relations entre Lui et le Gouvernement Egyptien, ainsi que d'assurer dans la mesure du possible aux transactions commerciales un caractère de stabilité favorable à leur développement, est tout disposé à conclure à cet effet un Traité de Commerce et de Navigation avec le Gouvernement Egyptien. Mais en attendant qu'un examen approfondi des exigences économiques des deux pays ait permis d'arrêter les bases d'un Traité définitif le Gouvernement Egyptien estimera peut-être, comme le Gouvernement Princier, qu'il y aurait un sérieux avantage à

régler la situation par un arrangement provisoire „stipulant le traitement général et réciproque de la nation la plus favorisée."

Mon département a fait préparer dans ce sens un projet d'arrangement, que j'ai l'honneur de soumettre ci-joint à Votre Excellence.

Je me plais à espérer qu'il obtiendra l'agrément du Gouvernement Egyptien.

Je saisis cette occasion, etc.

G. Voukovitch.

Son Excellence Monsieur le Ministre des
Affaires Etrangères au Caire.

No. 2.

(No. 385.) Le Caire, le 30 mai, 1905.

Monsieur le Ministre,

J'ai l'honneur d'accuser réception à Votre Excellence de la dépêche qu'Elle a bien voulu m'adresser à la date du 30 mars dernier, relativement à un projet d'arrangement commercial entre nos deux pays.

S'associant aux vues exprimées à ce sujet par le Gouvernement Princier, le Gouvernement de Son Altesse Le Khédive est également très désireux d'entretenir de bonnes et amicales relations avec la Principauté de Monténégro, et il est tout disposé à favoriser dans la mesure du possible le développement des transactions commerciales.

Dans son opinion ce but pourrait être atteint, sans conclure pour le moment de Convention Spéciale, en accordant au commerce et à la navigation du Monténégro, à charge de réciprocité, les mêmes droits et avantages assurés au commerce et à la navigation des pays qui ont conclu des Conventions Commerciales avec l'Egypte, pour tout ce qui concerne les articles et produits pour lesquels les dites Conventions stipulent la liberté d'importation.

Cet arrangement provisoire resterait en vigueur tant qu'il n'aurait pas été dénoncé douze mois à l'avance par l'une ou l'autre des deux Parties contractantes.

Je me plais à espérer que ces propositions obtiendront l'agrément du Gouvernement Princier et je saisis, etc.

Moustapha Fehmi.

Son Excellence le Ministre des Affaires Etrangères
du Monténégro.

No. 3.

(No. 3451.) Cettigné, le 9 juin, 1905.

Monsieur le Ministre,

J'ai eu l'honneur de recevoir la note que vous avez bien voulu m'adresser en date du 30 mai a.c. No. 385, concernant la conclusion d'un

arrangement commercial entre nos deux pays. Aussi ai-je hâte de vous remercier vivement au nom du Gouvernement Princier pour l'empressement amicalement favorable qui y est apporté, tant de la part du Gouvernement de Son Altesse le Khédive que de la vôtre, en mettant à votre connaissance que le Gouvernement Princier se rallie pleinement à cette manière de voir et partage votre opinion.

Se basant là-dessus le Gouvernement Princier s'engage, par la présente, et à titre de réciprocité, à accorder au commerce et à la navigation d'Egypte, tous les droits et avantages assurés au commerce et à la navigation des pays avec lesquels la Principauté de Monténégro est liée par des accords commerciaux (Traités de Commerce) pour tout ce qui concerne les articles et produits pour lesquels les dits accords stipulent la liberté d'importation.

Cet arrangement provisoire restera en vigueur tant qu'il n'aura pas été dénoncé douze mois à l'avance par l'une ou l'autre des deux Parties contractantes.

En vous priant de bien vouloir m'accuser réception de cette note je mets à profit cette occasion, etc.

G. Voukovitch.

Son Excellence Monsieur le Ministre des
Affaires Etrangères au Caire.

No. 4.

Alexandrie, le 21 juillet, 1905.

Monsieur le Ministre,

J'ai eu l'honneur de recevoir votre dépêche du 9 juin dernier No. 3451, par laquelle vous voulez bien m'informer que le Gouvernement Princier se rallie pleinement à la manière de voir et aux propositions du Gouvernement de Son Altesse Le Khédive exposées dans la dépêche de ce Département du 30 mai année courante No. 385, vous avez bien voulu ajouter que se basant là-dessus le Gouvernement de Son Altesse Royale s'engage par votre dépêche susvisée et à titre de réciprocité à accorder au commerce et à la navigation d'Egypte tous les droits et avantages assurés au commerce et à la navigation des pays avec lesquels la Principauté de Monténégro est liée par des accords commerciaux (Traités de Commerce) pour tout ce qui concerne les articles et produits pour lesquels les dits accords stipulent la liberté d'importation.

Votre Gouvernement déclare, en outre, adhérer à la clause d'après laquelle l'arrangement provisoire ainsi conclu restera en vigueur tant qu'il n'aura pas été dénoncé douze mois à l'avance par l'une ou l'autre des deux Parties.

En accusant réception à Votre Excellence de cette note dont je prends acte, je saisis cette occasion, etc.

Ibrahim Fouad.

Monsieur le Ministre des Affaires Etrangères
de la Principauté du Monténégro.

NOUVEAU

RECUEIL GÉNÉRAL

DE

TRAITÉS

ET

AUTRES ACTES RELATIFS AUX RAPPORTS
DE DROIT INTERNATIONAL.

CONTINUATION DU GRAND RECUEIL

DE

G. FR. DE MARTENS

PAR

Heinrich Triepel

Professeur de droit public à l'Université de Kiel

Associé de l'Institut de droit international.

TROISIÈME SÉRIE.

TOME VI.

DEUXIÈME LIVRAISON.

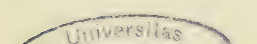


LEIPZIG

LIBRAIRIE DIETERICH

THEODOR WEICHER

1912



39.

ALLEMAGNE, FRANCE.

Lettres explicatives au sujet des Conventions relatives au Maroc et aux possessions des deux pays dans l'Afrique équatoriale; du 4 novembre 1911.*)

Revue générale de droit international public XIX (1912), Documents p. 12.

I.

M. de Kiderlen-Waechter, secrétaire d'Etat des affaires étrangères de l'Empire d'Allemagne, à M. Jules Cambon, ambassadeur de la République française à Berlin.

Berlin, le 4 novembre 1911.

Pour bien préciser l'accord du 4 novembre 1911 relatif au Maroc et en définir la portée, j'ai l'honneur de faire connaître à Votre Excellence que dans l'hypothèse où le gouvernement français croirait devoir assumer le protectorat du Maroc, le gouvernement impérial n'y apporterait aucun obstacle.

L'adhésion du gouvernement allemand, accordée d'une manière générale au gouvernement français par l'article 1er de ladite convention, s'applique naturellement à toutes les questions donnant matière à réglementation et visées dans l'acte d'Algésiras.

Vous avez bien voulu me faire connaître d'une part que, dans le cas où l'Allemagne désirerait acquérir de l'Espagne la Guinée espagnole, l'île Corisco et les îles Elobey, la France serait disposée à renoncer en sa faveur à exercer les droits de préférence qu'elle tient du traité du 27 juin 1900 entre la France et l'Espagne.**) Je suis heureux de prendre acte de cette assurance et d'ajouter que l'Allemagne restera étrangère aux accords particuliers que la France et l'Espagne croiront devoir faire entre elles au sujet du Maroc, étant convenu que le Maroc comprend toute la

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*) Comp. la paraphrase allemande, **N. R. G.** 3. s. V, p. 661, 662, 663. — La publication de la lettre allemande au Mémorial diplomatique du 19 novembre 1911 montre une lacune frappante.

) V. l'Article VII de ladite Convention; **N. R. G. 2. s. XXXII, p. 61.

partie de l'Afrique du Nord, s'étendant entre l'Algérie, l'Afrique occidentale française et la colonie espagnole du Rio de Oro.

Le gouvernement allemand, en renonçant à demander la détermination préalable de parts à faire à l'industrie allemande dans la construction des chemins de fer, compte que le gouvernement français sera toujours heureux de voir des associations d'intérêt se produire entre les ressortissants des deux pays pour les affaires dont ils pourront respectivement obtenir l'entreprise.

Il compte également que la mise en adjudication du chemin de fer de Tanger à Fez, qui intéresse toutes les nations, ne sera primée par la mise en adjudication des travaux d'aucun autre chemin de fer marocain et que le gouvernement français proposera au gouvernement marocain l'ouverture du port d'Agadir au commerce international.

Enfin, lorsque le réseau des voies ferrées d'intérêt général sera mis à l'étude, le gouvernement allemand demande au gouvernement français de veiller à ce que l'administration marocaine ait le plus réel souci des intérêts économiques du Maroc, et à ce que, notamment, la détermination du tracé des lignes d'intérêt général facilite dans la mesure du possible la jonction des régions minières avec les lignes d'intérêt général ou avec les ports appelés à les desservir.

Votre Excellence a bien voulu m'assurer que, le jour où aura été institué le régime judiciaire prévu par l'article 9 de la convention précitée, et où les tribunaux consulaires auront été remplacés, le gouvernement français aura soin que les ressortissants allemands soient placés sous la juridiction nouvelle exactement dans les mêmes conditions que les ressortissants français. Je suis heureux d'en prendre acte et de faire connaître en même temps à Votre Excellence que, au jour de l'entrée en vigueur de ce régime judiciaire, après entente avec les puissances, le gouvernement allemand consentira à la suppression, en même temps que pour les autres puissances, de ses tribunaux consulaires. J'ajoute que dans ma pensée l'expression „les changements du régime des protégés“, portée à l'article 12 de la convention du 4 novembre 1911 relative au Maroc, implique l'abrogation, si elle est jugée nécessaire, de la partie de la convention de Madrid qui concerne les protégés et les associés agricoles.

Enfin, désireux de donner à ladite convention le caractère d'un acte destiné non seulement à écarter toute cause de conflit entre nos deux pays, mais encore à aider à leurs bons rapports, nous sommes d'accord pour déclarer que les différends qui viendraient à s'élever entre les parties contractantes au sujet de l'interprétation et de l'application des dispositions de la convention du 4 novembre et qui n'auraient pas été réglés par la voie diplomatique, seront soumis à un tribunal arbitral constitué dans les termes de la convention de la Haye du 18 octobre 1907. Un compromis devra être dressé, et il sera procédé suivant les règles de la même convention, en tant qu'il n'y serait pas dérogé par un accord exprès au moment du litige.

Signé: *Kiderlen.*

M. Jules Cambon, ambassadeur de la République française à Berlin, à M. de Kiderlen-Waechter, secrétaire d'Etat des affaires étrangères de l'Empire d'Allemagne.

Berlin, le 4 novembre 1911.

J'ai l'honneur de prendre acte de la déclaration que Votre Excellence a bien voulu me faire que, dans l'hypothèse où le gouvernement français croirait devoir assumer le protectorat du Maroc, le gouvernement impérial n'y apporterait aucun obstacle, et que l'adhésion du gouvernement allemand accordée d'une manière générale au gouvernement français par l'article 1[er] de l'accord du 4 novembre 1911 relatif au Maroc s'applique naturellement à toutes les questions donnant matière à réglementation visée dans l'acte d'Algésiras.

D'autre part, j'ai l'honneur de vous confirmer que, dans le cas où l'Allemagne désirerait acquérir de l'Espagne la Guinée espagnole, l'île Corisco et les îles Elobey, la France est disposée à renoncer en sa faveur à exercer les droits de préférence qu'elle tient du traité du 27 juin 1900 entre la France et l'Espagne. Je suis heureux par ailleurs de recevoir l'assurance que l'Allemagne restera étrangère aux accords particuliers que la France et l'Espagne croiront devoir faire entre elles au sujet du Maroc, étant convenu que le Maroc comprend toute la partie de l'Afrique du Nord s'étendant entre l'Algérie, l'Afrique occidentale française et la colonie espagnole du Rio de Oro.

Je me plais aussi à vous informer que, le gouvernement allemand renonçant à demander la détermination préalable de parts à faire dans l'industrie allemande dans la construction des chemins de fer, le gouvernement français sera toujours heureux de voir des associations d'intérêt se produire entre les ressortissants des deux pays, pour les affaires dont ils pourront respectivement obtenir l'entreprise.

Vous pouvez également tenir pour certain que la mise en adjudication du chemin de fer de Tanger à Fez qui intéresse toutes les nations, ne sera primée par la mise en adjudication des travaux d'aucun autre chemin de fer marocain et que le gouvernement français proposera au gouvernement marocain l'ouverture du port d'Agadir au commerce international.

Enfin, lorsque le réseau des voies ferrées d'intérêt général sera mis à l'étude, le gouvernement français veillera à ce que l'administration marocaine ait le plus réel souci des intérêts économiques du Maroc et à ce que notamment la détermination du tracé des lignes d'intérêt général facilite dans la mesure du possible la jonction des régions minières avec les lignes d'intérêt général ou avec les ports appelés à les desservir. Votre Excellence peut également compter que le jour où aura été institué le régime judiciaire prévu par l'article 9 de la convention du 4 novembre 1911, relative au Maroc et où les tribunaux consulaires auront été remplacés, le gouvernement français aura soin que les ressortissants allemands soient placés sous la juridiction nouvelle exactement dans les mêmes conditions que les ressortissants français.

Je suis heureux d'autre part de prendre acte qu'au jour de l'entrée en vigueur du nouveau régime judiciaire après entente avec les puissances, le gouvernement allemand consentira à la suppression, en même temps que pour les autres puissances, de ses tribunaux consulaires. Je prends acte également que dans la pensée de Votre Excellence l'expression „le changement du régime des protégés" portée à l'article 12 de la convention précitée implique l'abrogation, si elle est jugée nécessaire, de la partie de la convention de Madrid qui concerne les protégés et associés agricoles.

Enfin, désireux de donner à la convention du 4 novembre 1911 relative au Maroc le caractère d'un acte destiné non seulement à écarter toute cause de conflit entre nos deux pays, mais encore à aider à leurs bons rapports, nous sommes d'accord pour déclarer que les différends qui viendraient à s'élever entre les parties contractantes au sujet des dispositions de ladite convention et qui n'auraient pu être réglés par la voie diplomatique, seront soumis à un tribunal arbitral constitué dans les termes de la convention de la Haye du 18 octobre 1907. Un compromis devra être dressé et il sera procédé suivant les règles de la même convention en tant qu'il n'y serait pas dérogé par un accord exprès au moment du litige.

Signé: *Jules Cambon.*

II.

M. de Kiderlen-Waechter, secrétaire d'Etat des affaires étrangères de l'Empire d'Allemagne, à M. Jules Cambon, ambassadeur de la République française à Berlin.

Berlin, le 4 novembre 1911.

Pour bien préciser l'esprit dans lequel sera appliquée la convention que nous venons de signer relativement aux échanges territoriaux dans l'Afrique équatoriale, il est entendu entre les deux gouvernements que les différends qui viendraient à s'élever entre les parties contractantes, au sujet de l'interprétation et de l'application des dispositions de cette convention, seront soumis à un tribunal arbitral constitué dans les termes de la convention de la Haye du 18 octobre 1907. Un compromis devra être dressé et il sera procédé suivant les règles de la même convention en tant qu'il n'y serait pas dérogé par un accord exprès au moment du litige.

Cependant, si des malentendus s'élevaient entre les membres de la Commission technique chargée de fixer la délimitation de la frontière, ces agents seraient départagés par un arbitre désigné d'un commun accord entre les deux gouvernements et appartenant à une tierce puissance.

Le gouvernement allemand sera toujours heureux de voir des associations d'intérêt se produire entre les ressortissants des deux pays pour les affaires qu'ils entreprendraient dans les possessions françaises et allemandes qui font l'objet de la convention de ce jour.

Il est entendu que l'application de ladite convention sera faite suivant les règles prévues pour celle de la convention franco-allemande du 18 avril 1908 sur la frontière Congo-Cameroun par les protocoles qui y sont annexés.

Signé: *Kiderlen.*

M. Jules Cambon, ambassadeur de la République française à Berlin, à M. de Kiderlen-Waechter, secrétaire d'Etat des affaires étrangères de l'Empire d'Allemagne.

Berlin, le 4 novembre 1911.

Pour bien préciser l'esprit dans lequel sera appliquée la convention que nous venons de signer, relativement aux échanges territoriaux dans l'Afrique équatoriale, il est entendu entre les deux gouvernements que les différends qui viendraient à s'élever entre les parties contractantes au sujet de l'interprétation et de l'application des dispositions de cette convention, seront soumis à un tribunal arbitral constitué dans les termes de la convention de la Haye du 18 octobre 1907. Un compromis devra être dressé et il sera procédé suivant les règles de la même convention, en tant qu'il n'y serait pas dérogé par un accord exprès au moment du litige.

Cependant, si des malentendus s'élevaient entre les membres de la Commission technique chargée de fixer la délimitation de la frontière, ces agents seraient départagés par un arbitre désigné d'un commun accord entre les deux gouvernements et appartenant à une tierce puissance.

Le gouvernement français sera toujours heureux de voir des associations d'intérêt se produire entre les ressortissants des deux pays pour les affaires qu'ils entreprendraient dans les possessions françaises et allemandes qui font l'objet de la convention de ce jour.

Il est entendu que l'application de ladite convention sera faite suivant les règles prévues pour celle de la convention franco-allemande du 18 avril 1908 sur la frontière Congo-Cameroun par les protocoles qui y sont annexés.

Signé: *Jules Cambon.*

40.

ALLEMAGNE, FRANCE.

Acte spécial par lequel le Gouvernement allemand cède à bail au Gouvernement français, en vue de l'établissement de postes de ravitaillement, des terrains situés sur la Bénoué et le Mayo Kébi; signé à Berlin, le 4 novembre 1911.*)

Le Mémorial diplomatique du 19 novembre 1911.

1⁰ Le gouvernement impérial allemand cède à bail au gouvernement de la République française, sur la Bénoué et le Mayo Kébi, et en deçà, dans la direction du Logone, des terrains dont le nombre et les limites exactes seront indiqués ultérieurement, mais qui auront, en bordure de ces fleuves, un développement de cinq cents mètres et qui formeront un tènement d'une superficie de cinquante hectares au plus;

2⁰ Le bail aura une durée de quatre-vingt-dix-neuf années consécutives, à partir du moment où la décision de la Commission d'abornement fixant l'emplacement de ces terrains aura été ratifiée par les deux gouvernements par application des articles 3 et 4 de la convention du 4 novembre 1911. Mais dans le cas où aucune des parties contractantes n'aura notifié, cinq ans avant l'échéance du terme sus-mentionné de quatre-vingt-dix-neuf ans, son intention de mettre fin au présent bail, ledit bail restera en vigueur jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des deux parties contractantes l'aura dénoncé;

3⁰ Ledit terrain sera soumis aux lois en vigueur pendant cette période dans les possessions allemandes du Cameroun;

4⁰ Une partie du territoire ainsi cédé à bail, et dont l'étendue n'excédera pas dix hectares, sera utilisée exclusivement pour les opérations de débarquement, d'emmagasinage et de transbordement des marchandises et pour toutes fins pouvant être considérées comme subsidiaires à ces opérations, et les seuls résidants permanents seront les personnes employées pour le service et la sécurité desdites marchandises avec leurs familles et leurs domestiques;

5⁰ Le gouvernement de la République française s'engage:

a) A clore la partie dudit terrain mentionné à l'article 4 du présent bail (à l'exception du côté bordant la Bénoué et le Mayo-Kébi) par un mur ou par une palissade, ou par un fossé, ou par tout autre sorte de clôture continue:

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*) V. l'Article 8 de la Convention du 4 novembre 1911; **N. R. G. 3. s. V, p. 656.**

b) A ne pas permettre, dans ladite partie de terrain, la réception ou la sortie d'aucune marchandise en contravention avec les règlements douaniers allemands. Tout acte fait en violation de cette stipulation, sera considéré comme équivalant à une fraude de droits de douanes et sera puni en conséquence;

c) A ne pas vendre ni autoriser à vendre des marchandises au détail sur ladite partie de terrain. La vente de quantité d'un poids ou d'une mesure inférieure à 1.000 kilogrammes, 1.000 litres ou 1.000 mètres, sera considérée comme vente au détail. Il est entendu que cette stipulation n'est pas applicable aux marchandises en transit;

d) Le gouvernement de la République française, ou ses sous-locataires ou agents, auront le droit de construire sur ladite portion de terrain des magasins, des maisons pour bureaux et tous autres édifices nécessaires pour les opérations de débarquement, d'emmagasinement et de transbordement des marchandises, et également de construire, dans la partie de l'avant-rivage de la Bénoué et du Mayo-Kébi et en deçà, dans la direction du Logone comprise dans le bail, des quais, des ponts, des docks et tous autres ouvrages nécessaires en vue desdites opérations, pourvu que les plans de tout ouvrage à construire ainsi sur l'avant-rivage des fleuves soient communiqués pour examen aux autorités allemandes, afin que vérification puisse être faite que ces ouvrages ne sauraient, en aucune manière, gêner la navigation des fleuves, ni être en opposition avec les droits des tiers, ni avec le système douanier;

e) Il est entendu que l'embarquement, le débarquement et l'emmagasinement des marchandises sur lesdites parties de terrain seront effectués à tous égards conformément aux lois alors en vigueur dans les possessions allemandes du Cameroun.

6⁰ Le gouvernement de la République française s'engage à payer annuellement au gouvernement impérial allemand, le 1er janvier de chaque année, un loyer d'un franc.

7⁰ Le gouvernement de la République française aura le droit de sous-louer tout ou partie des terrains faisant l'objet du présent bail, pourvu que les sous-locataires ne fassent usage de ces terrains à d'autres fins que celle stipulée dans le présent bail, et que ledit gouvernement demeure responsable envers le gouvernement impérial allemand de l'observation des stipulations du présent bail.

8⁰ Le gouvernement impérial allemand s'engage à remplir à l'égard du preneur à bail toutes les obligations qui lui incombent en sa qualité de propriétaire dudit terrain;

9⁰ Un an avant l'expiration du présent bail, dans le cas où il ne devrait pas être continué, les deux gouvernements s'entendront pour le rachat ou la disposition des constructions ou installations diverses qui se trouveront sur les terrains loués;

10⁰ Les terrains compris dans le bail seront arpentés et délimités;

11⁰ Dans les cas où une différence d'opinion surgirait entre les deux gouvernements sur l'interprétation du bail ou sur tout autre sujet se rapportant à ce bail, la question sera réglée par l'arbitrage d'un jurisconsulte d'une nationalité tierce, désigné d'accord par les deux gouvernements.

Fait à Berlin, le 4 novembre 1911,
en double exemplaire:

(L. S.) *Jules Cambon.*
(L. S.) *Kiderlen.*

41.

ALLEMAGNE, FRANCE.

Accord au sujet de la nationalité des personnes se trouvant dans les territoires échangés, le 4 novembre 1911, par l'Allemagne et la France en Afrique équatoriale;*) signé à Berlin, le 2 février 1912.**)

Reichs-Gesetzblatt 1912, No. 52.

Accord

au sujet de la nationalité des personnes se trouvant dans les territoires échangés, le 4 novembre 1911, par l'Allemagne et la France en Afrique équatoriale.

Les indigènes originaires des territoires qui ont donné lieu à des échanges et résidant au jour de l'annexion définitive dans les territoires cédés par l'Allemagne à la France, sortiront de la sujétion coloniale allemande pour acquérir la qualité de sujets français.

Réciproquement, les indigènes originaires des territoires qui ont donné lieu à des échanges et résidant au

(Übersetzung.)

Übereinkunft,

betreffend die Staatsangehörigkeit derjenigen Personen, die sich in den am 4. November 1911 zwischen Deutschland und Frankreich ausgetauschten Gebieten in Äquatorialafrika befinden.

Die Eingeborenen, die aus den ausgetauschten Gebieten stammen und am Tage der endgültigen Besitzergreifung in den von Deutschland an Frankreich abgetretenen Gebieten ihren Wohnsitz haben, hören auf Eingeborene eines deutschen Schutzgebiets zu sein und werden französische Untertanen.

Umgekehrt scheiden die Eingeborenen, die aus den ausgetauschten Gebieten stammen und am Tage der

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*) V. la Convention du 4 novembre 1911; N. R. G. 3. s. V, p. 651.
**) Les ratifications ont été échangées à Berlin, le 14 septembre 1912.

jour de l'annexion dans les territoires cédés par la France à l'Allemagne, perdront la qualité de sujets français pour entrer dans la sujétion coloniale allemande.

Toutefois, dans le délai d'un an à dater de l'annexion définitive, les indigènes seront libres de quitter le territoire annexé par l'une des parties contractantes pour s'établir sur le territoire de l'autre en emportant leurs récoltes. Dans ce cas ils recouvreront leur sujétion primitive.

L'annexion ne modifiera en rien la nationalité ni des ressortissants allemands, européens ou autres, ni des personnes soumises à la sujétion coloniale allemande et non originaires des territoires qui ont donné lieu à des échanges, alors même qu'ils continueraient à résider sur les territoires cédés par l'Allemagne à la France, et ils ne seront pas tenus d'émigrer dans un délai déterminé.

Réciproquement, l'annexion ne modifiera en rien la nationalité des citoyens français, européens ou autres, et des sujets français non originaires des territoires qui ont donné lieu à des échanges, alors même qu'ils continueraient à résider sur les territoires cédés par la France à l'Allemagne, et ils ne seront pas tenus d'émigrer dans un délai déterminé.

Les dispositions des alinéas 4 et 5 ne touchent pas le droit de chacune des parties contractantes d'expulser,

endgültigen Besitzergreifung in den von Frankreich an Deutschland abgetretenen Gebieten ihren Wohnsitz haben, aus dem französischen Untertanenverband aus und werden Eingeborene eines deutschen Schutzgebiets.

Es steht jedoch den Eingeborenen innerhalb eines Jahres von der endgültigen Besitzergreifung an frei, unter Mitnahme ihrer Ernten aus dem von einem der beiden vertragschliessenden Teile in Besitz genommenen Gebiet in das Gebiet des anderen Teiles überzusiedeln. In diesem Falle treten sie wieder in ihr früheres staatsrechtliches Verhältnis zurück.

Durch die Besitzergreifung bleiben die Staatsangehörigkeitsverhältnisse der europäischen oder sonstigen Reichsangehörigen sowie das staatsrechtliche Verhältnis der Eingeborenen eines deutschen Schutzgebiets, die nicht aus den ausgetauschten Gebieten stammen, auch dann unberührt, wenn sie weiter in den von Deutschland an Frankreich abgetretenen Gebieten ihren Wohnsitz behalten sollten; sie können nicht gezwungen werden, innerhalb eines bestimmten Zeitraums auszuwandern.

Andererseits bleiben durch die Besitzergreifung die Staatsangehörigkeitsverhältnisse der europäischen oder anderen französischen Staatsangehörigen und der französischen Untertanen, die nicht aus den ausgetauschten Gebieten stammen, auch dann unberührt, wenn sie weiter in den von Frankreich an Deutschland abgetretenen Gebieten ihren Wohnsitz behalten sollten; sie können nicht gezwungen werden, innerhalb eines bestimmten Zeitraums auszuwandern.

Durch die Bestimmungen der Abs. 4 und 5 wird das Recht der vertragschliessenden Teile, die in den ge-

pour des raisons générales de police, les personnes visées dans lesdits alinéas.

Fait à Berlin, le 2 février 1912, en double exemplaire.

(L. S.) *Zimmermann.*
(L. S.) *Jules Cambon.*

nannten Absätzen erwähnten Personen aus allgemeinen polizeilichen Gründen auszuweisen, nicht berührt.

So geschehen in Berlin am 2. Februar 1912 in doppelter Ausfertigung.

(L. S.) *Zimmermann.*
(L. S.) *Jules Cambon.*

42.

FRANCE, MAROC.

Traité pour l'organisation du protectorat français dans l'empire chérifien; signé à Fez, le 30 mars 1912.*)

Journal officiel du 27 juillet 1912.

Traité.

Le Gouvernement de la République française et le gouvernement de Sa Majesté Chérifienne, soucieux d'établir au Maroc un régime régulier, fondé sur l'ordre intérieur et la sécurité générale, qui permette l'introduction des réformes et assure le développement économique du pays, sont convenus des dispositions suivantes:

Art. 1er. Le Gouvernement de la République française et S. M. le sultan sont d'accord pour instituer au Maroc un nouveau régime comportant les réformes administratives, judiciaires, scolaires, économiques, financières et militaires que le Gouvernement français jugera utile d'introduire sur le territoire marocain.

Ce régime sauvegardera la situation religieuse, le respect et le prestige traditionnel du sultan, l'exercice de la religion musulmane et des institutions religieuses, notamment de celles des Habous. Il comportera l'organisation d'un makhzen chérifien réformé.

Le Gouvernement de la République se concertera avec le gouvernement espagnol au sujet des intérêts que ce gouvernement tient de sa position géographique et de ses possessions territoriales sur la côte marocaine.

De même, la ville de Tanger gardera le caractère spécial qui lui a été reconnu et qui déterminera son organisation municipale.

Art. 2. S. M. le sultan admet dès maintenant que le Gouvernement français procède, après avoir prévenu le makhzen, aux occupations militaires du territoire marocain qu'il jugerait nécessaires au maintien de l'ordre et

*) Le Traité a été ratifié.

de la sécurité des transactions commerciales et à ce qu'il exerce toute action de police sur terre et dans les eaux marocaines.

Art. 3. Le Gouvernement de la République prend l'engagement de prêter un constant appui à Sa Majesté Chérifienne contre tout danger qui menacerait sa personne ou son trône ou qui compromettrait la tranquillité de ses Etats. Le même appui sera prêté à l'héritier du trône et à ses successeurs.

Art. 4. Les mesures que nécessitera le nouveau régime de protectorat seront édictées, sur la proposition du Gouvernement français, par Sa Majesté Chérifienne ou par les autorités auxquelles elle en aura délégué le pouvoir. Il en sera de même des règlements nouveaux et des modifications aux règlements existants.

Art. 5. Le Gouvernement français sera représenté auprès de Sa Majesté Chérifienne par un commissaire résident général, dépositaire de tous les pouvoirs de la République au Maroc, qui veillera à l'exécution du présent accord.

Le commissaire résident général sera le seul intermédiaire du sultan auprès des représentants étrangers et dans les rapports que ces représentants entretiennent avec le gouvernement marocain. Il sera, notamment, chargé de toutes les questions intéressant les étrangers dans l'empire chérifien.

Il aura le pouvoir d'approuver et de promulguer, au nom du Gouvernement français, tous les décrets rendus par Sa Majesté Chérifienne.

Art. 6. Les agents diplomatiques et consulaires de la France seront chargés de la représentation et de la protection des sujets et des intérêts marocains à l'étranger.

S. M. le sultan s'engage à ne conclure aucun acte ayant un caractère international sans l'assentiment préalable du Gouvernement de la République française.

Art. 7. Le Gouvernement de la République française et le gouvernement de Sa Majesté Chérifienne se réservent de fixer d'un commun accord les bases d'une réorganisation financière qui, en respectant les droits conférés aux porteurs des titres des emprunts publics marocains, permette de garantir les engagements du Trésor chérifien et de percevoir regulièrement les revenus de l'empire.

Art. 8. Sa Majesté Chérifienne s'interdit de contracter à l'avenir, directement ou indirectement, aucun emprunt public ou privé et d'accorder, sous une forme quelconque, aucune concession sans l'autorisation du Gouvernement français.

Art. 9. La présente convention sera soumise à la ratification du Gouvernement de la République française et l'instrument de ladite ratification sera remis à S. M. le sultan dans le plus bref délai possible.

En foi de quoi, les soussignés ont dressé le présent acte et l'ont revêtu de leurs cachets.

Fait à Fez, le 30 mars 1912.

(L. S.) Signé: *Regnault.*
(L. S.) Signé: *Moulay Abd el Hafid.*

43.

BELGIQUE, FRANCE.

Déclaration pour fixer à nouveau les limites des possessions belges et françaises dans le Stanley Pool; signée à Bruxelles, le 23 décembre 1908.*)

Moniteur belge 1912. No. 130.

Déclaration.

Le Gouvernement belge et le Gouvernement de la République française conviennent d'adopter pour limites de leurs possessions respectives dans le Stanley Pool:

La ligne médiane du Stanley Pool jusqu'au point de contact de cette ligne avec l'île de Bamu, la rive méridionale de cette île jusqu'à son extrémité orientale, ensuite la ligne médiane du Stanley Pool.

L'île de Bamu, les eaux et les îlots compris entre l'île de Bamu et la rive septentrionale du Stanley Pool seront à la France; les eaux et les îles comprises entre l'île de Bamu et la rive méridionale du Stanley Pool seront à la Belgique.

Le territoire de l'île de Bamu est placé sous le régime d'une neutralité perpétuelle. Aucun établissement militaire ne pourra y être créé, et il est entendu que le territoire ainsi neutralisé sera au surplus soumis au régime prévu par la disposition finale de l'article 11 de l'Acte Général de Berlin.**)

En foi de quoi les soussignés ont dressé la présente déclaration qu'ils ont revêtue de leurs cachets.

Fait en double exemplaire à Bruxelles, le 23 décembre 1908.

(L. S.) *J. Davignon.*

(L. S.) *Beau.*
(L. S.) *E. Gentil.*

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*) Les ratifications ont été échangées à Bruxelles, le 4 avril 1912.
**) V. N. R. G. 2. s. X, p. 419.

44.

BELGIQUE, FRANCE.

Déclaration concernant le tracé de la frontière des possessions belges et françaises dans la région du Shiloango; signée à Bruxelles, le 23 décembre 1908.*)

Moniteur belge 1912. No. 130.

Déclaration.

Le Gouvernement belge et le Gouvernement de la République française,

Désirant achever sans délai la délimitation entre Manyanga et l'Océan, de la frontière de leurs possessions en Afrique, définie par la convention du 5 février 1885 conclue entre le Gouvernement de la République française et l'Association Internationale du Congo;**)

Ayant constaté, à la suite des reconnaissances effectuées par la commission de délimitation franco-congolaise, que l'existence d'un accident de terrain non prévu par la convention précitée avait pour conséquence de laisser dans l'indétermination une partie de frontière comprise entre la source la plus septentrionale du Shiloango (pic Kiama) et l'origine de la crête de partage des eaux du Niadi Quillou et du Congo (pic Bembo);

Conviennent de prendre pour base d'un règlement définitif d'une part le texte intégral de la Convention de 1885, d'autre part les procès-verbaux de la commission mixte, et de compléter l'article 3 de la dite convention par l'addition d'une disposition nouvelle.

En conséquence les deux Gouvernements, d'accord pour reconnaître comme document définitif la carte de l'ensemble de la frontière telle qu'elle a été établie par la commission mixte, adoptent la ligne de faîte comprise entre le pic Kiama et le pic Bembo comme limite de leurs possessions entre la source la plus septentrionale du Shiloango et la crête de partage des eaux du Niadi Quillou et du Congo.

En foi de quoi les soussignés ont dressé la présente déclaration et l'ont revêtue de leurs cachets.

Fait en double exemplaire à Bruxelles le 23 décembre 1908.

(L. S.) *J. Davignon.* (L. S.) *Beau.*
(L. S.) *E. Gentil.*

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*) Les ratifications ont été échangées à Bruxelles, le 4 avril 1912.
**) V. N. R. G. 2. s. X, p. 377; XX, p. 700.

45.

BELGIQUE, FRANCE.

Arrangement au sujet du droit de préférence de la France sur les possessions congolaises; signé à Paris, le 23 décembre 1908.*)

Moniteur belge 1912. No. 130.

Arrangement portant règlement du droit de préférence de la France sur les territoires de l'Etat du Congo.

Considérant qu'en vertu des lettres échangées les 23—24 avril 1884, entre M. Strauch, Président de l'Association Internationale du Congo, et M. J. Ferry, Président du Conseil et Ministre des Affaires Etrangères de la République Française, un droit de préférence a été assuré à la France pour le cas où l'Association serait amenée un jour à réaliser ses possessions;**) que ce droit de préférence a été maintenu lorsque l'Etat Indépendant du Congo a remplacé l'Association Internationale;

Considérant qu'à la suite du transfert à la Belgique des possessions de l'Etat Indépendant du Congo, en vertu du Traité de cession du 28 novembre 1907 et de l'Acte additionnel à ce traité en date du 5 mars 1908;†) le Gouvernement belge se trouve substitué à l'obligation contractée sous ce rapport par le Gouvernement du dit Etat;

Les soussignés sont convenus des dispositions suivantes qui régleront désormais le droit de préférence de la France à l'égard de la Colonie belge du Congo:

Art. 1er. Le Gouvernement belge reconnaît à la France un droit de préférence sur ses possessions congolaises, en cas d'aliénation de celles-ci à titre onéreux, en tout ou en partie.

Donneront également ouverture au droit de préférence de la France, et feront, par suite, l'objet d'une négociation préalable entre le Gouvernement belge et le Gouvernement de la République Française, tout échange des territoires congolais avec une puissance étrangère; toute concession, toute location des dits territoires, en tout ou en partie, aux mains d'un Etat étranger ou d'une compagnie étrangère investie de droits de souveraineté.

Art. 2. Le Gouvernement belge déclare qu'il ne sera jamais fait de cession, à titre gratuit, de tout ou partie de ces mêmes possessions.

Art. 3. Les dispositions prévues aux articles ci-dessus s'appliquent à la totalité des territoires du Congo belge.

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*) Les ratifications ont été échangées à Bruxelles, le 4 avril 1912.
**) V. N. R. G. 2. s. XVI, p. 582.
†) V. N. R. G. 3. s. II, p. 101, 106.

En foi de quoi, les soussignés ont dressé le présent arrangement qu'ils ont revêtu de leurs cachets.

Fait en double exemplaire, à Paris, le 23 décembre 1908.

(L. S.) *A. Leghait.*
(L. S.) *S. Pichon.*

46.

SUÈDE ET NORVÈGE, ESPAGNE.

Convention d'arbitrage; signée à Madrid, le 23 janvier 1905.*)**)

Sandgren, Recueil des Traités de la Suède (1910), p. 696.

Sa Majesté le Roi de Suède et de Norvège et Sa Majesté le Roi d'Espagne, signataires de la Convention pour le règlement pacifique des conflits internationaux, conclue à La Haye le 29 juillet 1899, désirant, en application des principes énoncés aux articles 15—19 de la dite Convention, entrer en négociations pour la conclusion d'une Convention d'Arbitrage obligatoire, ont nommé pour Leurs Plénipotentiaires, savoir:

Lesquels, après s'être communiqué leurs pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Art. 1. Les Hautes Parties Contractantes s'engagent à soumettre à la Cour Permanente d'Arbitrage établie par la Convention du 29 juillet 1899, à La Haye, les différends qui viendraient à se produire entre Elles, et qui n'auraient pu être réglés par la voie diplomatique, à la condition toutefois qu'ils ne mettent en cause ni les intérêts vitaux, ni l'indépendance des pays respectifs.

Art. 2. Il appartient à chacune des Hautes Parties Contractantes d'apprécier si le différend, qui se sera produit, met en cause ses intérêts vitaux ou son indépendance et, par conséquent, est de nature à être compris parmi ceux qui, d'après l'article précédent, sont exceptés de l'arbitrage obligatoire.

Art. 3. Les Hautes Parties Contractantes s'engagent à ne pas faire valoir des exceptions d'après l'article 2 dans les cas suivants, pour lesquels l'arbitrage sera en tout cas obligatoire.

1) En cas de différends se rapportant à des dommages pécuniaires, lorsqu'il s'agit de l'interprétation ou de l'application des Conventions de toute espèce entre les Hautes Parties Contractantes.

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*) V. la traduction espagnole de cette Convention N. R. G. 3. s. I, p. 287. Nous en reproduisons à présent le texte original.

**) Les ratifications ont été échangées à Madrid, le 20 mars 1905.

2) En cas de différends se rapportant à des dommages pécuniaires à cause d'actes de guerre, de guerre civile ou de blocus dit pacifique, de l'arrestation des étrangers ou de la saisie de leurs biens.

3) En cas de différends sur la fixation du montant des indemnités pécuniaires, lorsque le principe de l'indemnité est reconnu par les parties.

Art. 4. La présente Convention recevra son application, même si les différends qui viendraient à se produire avaient leur origine dans des faits antérieurs à sa conclusion.

Art. 5. Lorsqu'il y aura lieu à un arbitrage entre Elles, les Hautes Parties Contractantes à défaut de clauses compromissoires contraires se conformeront, pour tout ce qui concerne la désignation des arbitres et la procédure arbitrale, aux dispositions établies par la Convention du 29 juillet 1899, sauf en ce qui concerne les points indiqués ci-après.

Art. 6. Aucun des arbitres ne pourra être sujet des Etats signataires ni domicilié dans leurs territoires. Ils ne devront avoir aucun intérêt dans les questions qui seront l'objet de l'arbitrage.

Art. 7. Le compromis prévu par l'article 31 de la Convention du 29 juillet 1899 fixera un terme avant l'expiration duquel devra avoir lieu l'échange entre les deux parties des mémoires et documents se rapportant à l'objet du différend. Cet échange sera terminé dans tous les cas avant l'ouverture des séances du Tribunal Arbitral.

Art. 8. La sentence arbitrale contiendra l'indication des délais dans lesquels elle devra être exécutée, s'il y a lieu.

Art. 9. La présente Convention aura la durée de dix ans à partir du jour de l'échange des ratifications. Dans le cas où aucune des Hautes Parties Contractantes n'aurait notifié six mois avant la fin de la dite période, son intention d'en faire cesser les effets, la Convention demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'un ou l'autre des Hautes Parties Contractantes l'aura dénoncée.

Art. 10. La présente Convention sera ratifiée dans le plus bref délai possible et les ratifications seront échangées à Madrid.

En foi de quoi les Plénipotentiaires ont signé la présente Convention et l'ont revêtue de leurs cachets.

Fait à Madrid, en double expédition, le vingt trois janvier mil neuf cent cinq.

F. Wedel-Jarlsberg.
El Marques de Aquilar De Campoó.

Protocole de signature.

Au moment de procéder à la signature de la Convention d'Arbitrage, conclue à la date de ce jour, les Plénipotentiaires soussignés déclarent qu'il est entendu que la Convention n'abroge pas les dispositions du

premier alinéa de l'article 2 de la Déclaration, signée à Madrid le 23 juin 1887, et qu'il est également entendu que les stipulations de l'article 7 de la dite Convention ne portent aucune atteinte à ce qui a été stipulé dans la Convention de la Haye du 29 juillet 1899 concernant la seconde phase de la procédure arbitrale (art. 39) notamment les stipulations des articles 43—49.

En foi de quoi les Plénipotentiaires respectifs ont dressé le présent Protocole de signature qui aura la même force et la même valeur que si les dispositions qu'il contient étaient insérées dans la Convention elle-même.

Fait à Madrid, en double exemplaire, le 23 janvier 1905.

F. Wedel-Jarlsberg.
El Marques de Aquilar De Campoó.

47.

PÉROU, COLOMBIE.

Accord d'amitié et d'arbitrage; signé à Lima, le 21 avril 1909, suivi d'une Convention supplémentaire, signée à Bogotá, le 13 avril 1910.

Boletin del Ministerio de Relaciones Exteriores del Perú.

El gobierno de la república del Perú y el de la república de Colombia, deseando poner termino en forma cordial á los desacuerdos que han surgido entre ellos y evitar en lo sucesivo toda posibilidad de conflictos en la región de la frontera, estableciendo al mismo tiempo sus relaciones de amistad en pie de perfecta inteligencia y armonia, han resuelto celebrar un convenio que traduzca fielmente esos propositos, para cuyo efecto han autorizado debidamente á sus plenipotenciarios á saber:

El presidente de la república del Perú al señor doctor don Meliton F. Porras, ministro de relaciones exteriores; y

El presidente de la república de Colombia al señor don Luis Tanco Argaez, enviado extraordinario y ministro plenipotenciario de dicha república en el Perú, quienes han acordado lo siguiente:

Artículo I.

Los gobiernos del Perú y Colombia expresan sus sentimentos de vivo pesar por los sucesos ocurridos en la región del Putumayo el ano ultimo y, en senal de mutua satisfacción, convienen en constituir por medio de una convención especial, suscrita dentro del termino de tres meses con-

tados desde la fecha en que se ponga en vigencia el presente acuerdo, una comisión internacional que averigue y esclarezca los hechos occuridos en dicha región, dando cuenta del resultado de sus investigaciones por medio de un informe. Si después de rendido este informe, no lográn ponerse de acuerdo ambos, gobiernos sobre las responsabilidades que de tales hechos se deriven, se sometera el asunto a una decisión arbitral. Determinada la responsabilidad de los que resulten culpables, sufrirán estos las penas que la ley respectiva senale, siguiendose previamente el procedimiento que corresponda. Se indemnizara ademas en forma equitativa á los que hayan sufrido danos materiales, y á las familias de las victimas por razon de hechos declarados punibles.

Artículo II.

Los gobiernos del Perú y Colombia convienen en reanudar sus negociaciones sobre delimitación de fronteras in mediatamente después que se pronuncie el laudo en el juicio arbitral que se signe en Madrid á merito del tratado celebrado entre el Perú y el Ecuador en 1887, y acuerdan recurrir al arbitraje si no lograsen obtener la solución de sus divergencias en forma directa.

Artículo III.

Si tras currierán tres meses á partir de la vigencia de este convenio, sin que su majestad el rey de España haya pronunciado el laudo en el juicio arbitral peru-ecuadoriano, los dos gobiernos se comprometen á celebrar un pacto de modus vivendi referente á los territorios en litigio en forma que impida en ellos la posibilidad de luchas ó el choque de intereses entre ciudadanos de uno y otro país.

Artículo IV.

Con el propósito de fomentar el comercio que existe entre el Perú y Colombia, tanto en la región oriental como en las costas del Pacífico, los dos gobiernos convienen en celebrar un tratado de comercio y navegación sobre bases de recíproca conveniencia.

En fé de lo cual, firmán el presente acuerdo en doble ejemplar, poniendole sus respectivos sellos, en Lima, á los veintiún dias del mes de abril de mil novecientos nueve.

(L. S.) *M. F. Porras.*
(L. S.) *Luis Tanco Argaez.*

El gobierno de la república del Perú y el de la república de Colombia, deseando cumplir y ampliar lo estipulado en el artículo 1º del acuerdo diplomático de amistad y arbitraje celebrado en Lima el 21 de abril de 1909, han resuelto celebrar un convenio que traduzca fielmente sus propósitos, para lo cual han autorizado debidamente á sus plenipotenciarios respectivos, á saber:

El presidente de la república del Perú, al señor don Ernesto de Tezanos Pinto, enviado extraordinario y ministro plenipotenciario de dicha república en Bogotá, y

El presidente de la república de Colombia, al señor doctor don Carlos Calderón, ministro de relaciones exteriores.

Quienes han acordado lo siguiente:

Artículo I.

Los gobiernos del Perú y de Colombia acuerdan constituir por medio de este convenio una comisión mixta internacional á quien corresponda:

1°. Fijar el monto de la indemnización pecuniaria que uno de los dos países deba pagarle al otro por causa de los daños que las autoridades ó ciudadanos del mismo país hayan causado á las personas ó propiedades del otro en la región comprendida entre los ríos Caquetá y Amazonas hasta la fecha de este convenio.

2°. Determinar los casos en los cuales se deba proceder, de acuerdo con las leyes del respectivo país, á investigaciones judiciales encaminadas al juzgamiento y castigo de los individuos responsables por hechos punibles ejecutados en el mismo territorio y en el mismo tiempo.

Artículo II.

La comisión mixta se reunirá en Río de Janeiro y estará constituída por un delegado nombrado por el gobierno del Perú, otro nombrado por el gobierno de Colombia y un tercero en discordia, que será S. E. el señor Barón de Río Branco, actual ministro de relaciones exteriores de los Estados Unidos del Brasil, quien deberá presidirla si tiene á bien aceptar el cargo.

Artículo III.

Los gobiernos del Perú y de Colombia solicitarán de S. E. el señor Barón de Río Branco que acepte el cargo de tercero en discordia en la comisión mixta internacional á que se refiere este convenio, y si no quisiere ó no pudiere aceptar este cargo, los dos gobiernos se dirigirán á S. E. el señor ministro de la Gran Bretaña en Río de Janeiro con igual fin. Si el señor ministro de la Gran Bretaña se excusare también de aceptarlo, se pedirá á S. E. el ministro del Imperio Alemán en Río de Janeiro que lo desempeñe, y si este tampoco pudiere aceptarlo, el tercero será nombrado por acuerdo entre los delegados del Perú y de Colombia, al momento de entrar á ejercer sus funciones de miembros de la comisión mixta.

Artículo IV.

Será presidente de la comisión mixta el tercero en discordia, y su voto y opinión decidirán en cualquier caso de desacuerdo entre los otros dos miembros de ella.

Artículo V.

La comisión mixta internacional se reunirá dentro de cuatro meses contados desde el día en que se firme el presente convenio, y tendrá

facultad para enviar comisiones nombradas por ella á los lugares á donde lo considere necesario con el fin de obtener datos é informes fidedignos que ilustren su criterio y puedan servir de base para fallar con pleno conocimiento de su causa.

Artículo VI.

Los gobiernos del Perú y de Colombia podrán presentar á la comisión toda clase de exposiciones, memorias y alegatos, de pruebas y de contrapruebas, y hacer defender sus pretensiones de palabra y por escrito con toda libertad, durante el término que con tal objeto fije la comisión mixta internacional.

Artículo VII.

Dentro de un término de cuatro meses después de vencido el plazo para la presentación de los alegatos, réplicas y contraréplicas, pruebas y contrapruebas por las partes, la comisión mixta internacional dictará su decisión para determinar los casos en los cuales se deba proceder á las investigaciones judiciales de que se ha hablado en el parágrafo 2⁰ del artículo I.

Artículo VIII.

Dentro del mismo término de cuatro meses, la comisión mixta internacional fijará igualmente en su fallo arbitral la suma que se deba pagar, de acuerdo con el parágrafo 1⁰ del artículo I, por cualquiera de los dos gobiernos al otro, á título de indemnización, á favor de las personas que hayan sufrido daños materiales ó personales por hechos punibles y á favor de las familias de las víctimas de tales hechos.

Artículo IX.

Estos pagos deberán fijarse en monedas de oro inglés y efectuarse en esta especie, en la capital del país que resulte obligado, á más tardar, cuatro meses después de la fecha de la sentencia dictada por la comisión mixta internacional.

Los particulares que se acojan á las decisiones de la comisión mixta en cuanto á la indemnización por los daños sufridos, renuncian virtualmente al derecho de reclamar nueva indemnización por las mismas causas, contra el gobierno que les otorgó la primera.

Artículo X.

Cuando la comisión mixta haya llenado su cometido, comunicará su juicio á los respectivos gobiernos, para que, siguiéndose previamente la causa criminal á que haya lugar, según las leyes del respectivo país, se les imponga á los culpables las penas que las mismas leyes señalan.

Parágrafo. Para determinar á cuál de las dos repúblicas corresponde en cada caso el enjuiciamiento y castigo de los culpables, la comisión mixta observará las reglas siguientes:

1ª A los tribunales de cada una de las dos repúblicas corresponde conocer de los delitos cometidos por sus funcionarios ó empleados públicos en el ejercicio de su cargo.

2ª A los tribunales de cada una de las dos repúblicas corresponde igualmente conocer de los delitos cometidos por los jefes, oficiales ó individuos de tropa de su ejército, ó por los comandantes, oficiales ó tripulantes de sus naves de guerra ó de naves empleadas en su servicio.

3ª De los delitos cometidos por particulares corresponde conocer á los tribunales de la república en cuyo territorio se cometieron.

Si los hechos punibles tuvieron lugar dentro de territorio disputado por ambas repúblicas, la comisión resolverá á cual de ellas corresponde conocer del juicio criminal, teniendo en cuenta para ello únicamente cual de las dos repúblicas tenía constituídas autoridades en ese territorio. Pero si el individuo responsable se hallare en lugar ocupado por su país de origen en el momento en que la comisión mixta determine á qué jurisdicción haya de estar sometido, será juzgado conforme á las leyes de aquel país. Los nacionales de un tercer país serán juzgados por los jueces del en que se hallen después de suscrito este convenio.

Si los hechos punibles se hubieren realizado en territorio en el cual ninguna de las partes contratantes tenía á la sazón constituídas autoridades, corresponderá conocer del juicio criminal por tales hechos á los tribunales del país á que pertenezcan los individuos sindicados.

Lo estipulado en este artículo no implica, por parte dé una de las repúblicas contratantes, el reconocimiento de la jurisdicción ejercida por su limítrofe en el territorio disputado, para efectos diferentes de los del cumplimiento del laudo arbitral.

Artículo XI.

El fallo de la comisión mixta internacional será definitivo é inapelable y quedará ejecutoriado en la misma fecha en que haya sido dictado.

El dicho fallo será comunicado á las legaciones de los dos países en Río de Janeiro, y á falta de éstas, á los respectivos gobiernos.

Artículo XII.

El gobierno del Perú y el de Colombia arreglarán y pagarán separadamente los honorarios de su respectivo árbitro y estipularán conjuntamente los del tercero en discordia. Estos últimos honorarios, así como los otros gastos de carácter común que ocasione la comisión mixta, se dividirán por mitad y serán pagados por ambos gobiernos dentro del término de tres meses de decididas todas las cuestiones sometidas al fallo de la comisión mixta.

Artículo XIII.

Este convenio será considerado como reformatorio del que fué celebrado en Lima por S. E. el enviado extraordinario y ministro plenipotenciario de Colombia en esa ciudad y el ministro de relaciones exteriores

del Perú el 21 de abril de 1909, y surtirá sus efectos desde la fecha en que se suscribe.

En fé de lo cual firman en doble ejemplar, el presente convenio, en Bogotá, á trece de abril de mil novecientos diez.

(L. S.) *E. de Tezanos Pinto.*
(L. S.) *Carlos Calderón.*

48.

CHINE, BRÉSIL.

Convention d'arbitrage; signée à Péking, le 3 août 1909.*)

Diario oficial do Brazil 1912, p. 8126.

Convenção de arbitramento entre a China e os Estados Unidos do Brasil.

Sua Magestade o Imperador da China e o Presidente da Republica dos Estados Unidos do Brasil, desejando concluir uma Convenção de Arbitramento em conformidade com os principios enunciados nos artigos 15 a 19 e 21 da Convenção para o concerto pacifico dos conflictos internacionaes, assignada na Haya aos 29 de julho de 1899,**) e nos artigos 37 a 40 e artigo 42 da que, com o mesmo objecto, foi tambem assignada na Haya aos 18 de outubro de 1907,†) nomearam por seus Plenipotenciarios, a saber:

Sua Magestade o Imperador da China nomeou o Senhor Lien Fang, Vice Presidente do Wai Wu Pu; e

O Presidente dos Estados Unidos do Brasil nomeou o Senhor M. C. Gonçalves Pereira, Enviado Extraordinario e Ministro Plenipotenciario na China;

Convention d'Arbitrage entre la Chine et les Etats Unis du Brésil.

Sa Majesté l'Empereur de Chine et le Président des Etats Unis du Brésil, désirant conclure une Convention d'Arbitrage en application des principes énoncés dans les articles 15 à 19 et 21 de la Convention pour le règlement pacifique des conflits internationaux, signée à La Haye le 29 juillet 1899,**) et des articles 37 à 40 et 42 de la Convention signée à la même ville de La Haye le 18 octobre 1907,†) ont nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur de Chine, Monsieur Lien-Fang, Vice Président du Wai Wu Pu;

Le Président des Etats Unis du Brésil, Monsieur M. C. Gonçalves Pereira, Envoyé Extraordinaire et Ministre Plénipotentiaire en Chine;

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*) Les ratifications ont été échangées à Paris, le 14 décembre 1911.
**) V. N. R. G. 2. s. XXVI, p. 920.
†) V. N. R. G. 3. s. III, p. 360.

Os quaes, devidamente autorisados convieram nos artigos seguintes:

Artigo I.

Os desaccordos de ordem juridica ou relativos á interpretação de tratados existentes entre as duas Altas Partes Contractantes, que occorram entre Ellas e não tenham podido resolver-se por via diplomatica, serão submettidos ao Tribunal da Convenção de 29 de julho instituido na Haya em virtude Permanente de Arbitramento de 1899, comtanto, porém, que não entendam com os interesses vitaes, a independencia ou a honra dos Estados Contractantes e não collidam com interesses de outra Potencia; e ficando, além disso assentado que, se uma das duas Partes o preferir, qualquer arbitramento resultante da presente Convenção será deferido a um Chefe de Estado, a um Governo amigo ou a um ou mais Arbitros escolhidos fóra das listas do Tribunal da Haya.

Artigo II.

Em cada caso particular antes de recorrerem ao Tribunal Permanente da Haya, a outros Arbitros ou a um só Arbitro, as Altas Partes Contractantes firmarão um compromisso especial determinando claramente o objecto do litigio, a extensão dos poderes do Arbitro ou Arbitros e as condições que hajam de ser observadas no tocante aos prazos para a constituição do Tribunal Arbitral ou para a escolha do Arbitro ou Arbitros, assim como aos tramites do processo.

Fica entendido que, no que concerne o Imperio da China, os compromissos especiaes de que se trata serão feitos pelo Imperador, na fórma e com as condições que Elle julgar necessarias ou convenientes, e no que concerne

Lesquels, dûment autorisés, sont convenus des articles suivants:

Article I.

Les différends d'ordre juridique ou relatifs à l'interprétation des traités existant entre les deux Hautes Parties Contractantes qui viendraient à se produire entre Elles, et qui n'auraient pu être réglés par la voie diplomatique seront soumis à la Cour Permanente d'Arbitrage établie, par la Convention du 29 juillet 1899, à La Haye, à la condition, toutefois, qu'ils ne mettent en cause ni les intérêts vitaux, ni l'indépendance ou l'honneur des Etats Contractants et qu'ils ne touchent pas aux intérêts de tierces Puissances, étant, en outre, entendu que, si l'une des deux Parties Contractantes le préfère, tout arbitrage résultant de la présente Convention sera soumis à un Chef d'Etat, à un Gouvernement ami, ou à un ou plusieurs Arbitres choisis en dehors des listes du Tribunal de La Haye.

Article II.

Dans chaque cas particulier, les Hautes Parties Contractantes avant de s'adresser à la Cour Permanente de La Haye, à d'autres Arbitres ou à un seul Arbitre, signeront un compromis spécial déterminant nettement l'objet du litige, l'étendue des pouvoirs de l'Arbitre ou des Arbitres, et les conditions à observer en ce qui concerne les délais pour la constitution du Tribunal Arbitral ou le choix de l'Arbitre ou des Arbitres, ainsi que les règles de la procédure.

Il est entendu que, pour ce qui concerne l'Empire de Chine, les compromis spéciaux dont il s'agit seront faits par l'Empereur dans les formes et aux conditions qu'Il jugera nécessaires ou convenables, et pour

os Estados Unidos do Brasil pelo Presidente da Republica com o consentimento do Congresso Nacional.

Artigo III.

A presente Convenção vigorará por espaço de cinco annos contados do dia da troca das ratificações. Se não fôr denunciada seis mezes antes do vencimento, continuará em vigor durante um novo periodo de cinco annos e assim successivamente.

Artigo IV.

Preenchidas as formalidades legaes nos dois paizes, será a presente Convenção ratificada e as ratificações trocadas no Rio de Janeiro no mais breve prazo possivel.

A presente Convenção foi redigida nas tres linguas chineza, portugueza e franceza. Foram feitos por esta forma quatro exemplares. Em caso de divergencia de interpretação o texto francez decidirá.

Em fé do que, nós, os Plenipotenciarios acima nomeados, assignamos a presente Convenção appondo nella os nossos sellos.

Feito em Peking no decimo oitavo dia da sexta lua do primeiro anno de Hsueng-Tung, correspondendo ao terceiro dia do mez de Agosto de mil novecentos e nove.

(Sello e assignatura em caracteres chinezes.)

(L. S.) *M. C. Gonçalves Pereira.*

ce qui concerne les Etats Unis du Brésil par le Président de la République avec le consentement du Congrès National.

Article III.

La présente Convention est conclue pour une durée de cinq années à partir du jour de l'échange des ratifications. Si elle n'est pas dénoncée six mois avant l'expiration de ce terme, elle continuera à rester en vigueur pendant une nouvelle période de cinq années, et il en sera de même successivement.

Article IV.

La présente Convention sera ratifiée après l'accomplissement des formalités légales dans les deux pays, et les ratifications en seront échangées à Rio de Janeiro aussitôt que faire se pourra.

La présente Convention a été rédigée dans les trois langues chinoise, portugaise et française. Quatre exemplaires en ont été préparés. En cas de contestation le texte français seul fera foi.

En foi de quoi, les Plénipotentiaires ci-dessus nommés, ont signé la présente Convention et y ont apposé leurs cachets.

Fait à Péking le dix-huitième jour de la sixième lune de la première année de Hsueng-Tung, correspondant au troisième jour du mois d'août de mil neuf cent neuf.

(Sello e assignatura em caracteres chinezes.)

(L. S.) *M. C. Gonçalves Pereira.*

49.

BRÉSIL, MEXIQUE.

Convention d'arbitrage; signée à Pétropolis, le 11 avril 1909.*)

Diario oficial do Brazil 1912, p. 8127.

Convenção de Arbitramento entre os Estados Unidos do Brasil e os Estados Unidos Mexicanos.

O Presidente dos Estados Unidos do Brasil e o Presidente dos Estados Unidos Mexicanos, desejando concluir uma Convenção de Arbitramento de accordo com os principios enunciados nos artigos 15 a 19 e 21 da Convenção para o concerto pacifico de conflictos internacionaes ajustada na Haya aos 29 de julho de 1899,**) e nos artigos 37 a 40 e artigo 42 da que, com o mesmo objecto, foi tambem assignada na Haya aos 18 do outubre de 1907,†) nomearam os seus Plenipotenciarios, a saber:

O Presidente dos Estados Unidos do Brasil, o Snr. José Maria da Silva Paranhos do Rio-Branco, Ministro de Estado das Relações Exteriores; e

O Presidente dos Estados Unidos Mexicanos, o Sr. Maneel Julian de Lizardi, seu Enviado Extraordinario e Ministro Plenipotenciario junto ao Governo do Brasil;

Os quaes, devidamente autorisados, convieram nos seguintes artigos:

Artigo I.

Os desaccordos que occorrerem entre as duas Altas Partes Contractantes

Convenio de Arbitraje entre los Estados Unidos Mexicanos y los Estados Unidos del Brasil.

El Presidente de los Estados Unidos Mexicanos y el Presidente de la República de los Estados Unidos del Brasil, deseando concluir un Convenio de Arbitraje en conformidad con los principios enunciados en los artículos 15 á 19 y 21 del Convenio para el arreglo pacifico de conflictos internacionales ajustado en El Haya el 29 de Julio de 1899,**) y en los artículos 37 á 40 y 42 del que, con el mismo objeto, fue tambien firmado en El Haya el 18 de Octubre de 1907,†) han nombrado por sus Plenipotenciarios, á saber:

El Presidente de los Estados Unidos Mexicanos, al Señor Don Manuel Julian de Lizardi, su Enviado Extraordinario y Ministro Plenipotenciario cerca del Gobierno del Brasil; y

El Presidente de los Estados Unidos del Brasil, al Señor Don José Maria da Silva Paranhos do Rio-Branco, Ministro de Estado de Relaciones Exteriores;

Los cuales, debidamente autorizados, han convenido en los artículos siguientes:

Artículo I.

Las diferencias que ocurrieren entre las dos Altas Partes Contratantes sobre

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*) Les ratifications ont été échangées à Mexique, le 26 décembre 1911.
**) V. N. R. G. 2. s. XXVI, p. 920. †) V. N. R. G. 3. s. III, p. 360.

sobre questões de caracter juridico ou relativas á interpretação de tratados em vigor, existentes ou que venham a existir entre ellas, e que não tenham podido resolver-se por via diplomatica, serão submettidos ao Tribunal Permanente de Arbitragem instituido na Haya em virtude da Convenção de 29 de julho de 1899, comtanto, porém, que as referidas questões não entendam com os interesses vitaes, a independencia ou a honra de um ou outro dos Estados Contractantes, e não collidam com interesses de outro Estado; ficando, além disso, assentado que, se uma das duas Partes o preferir, qualquer arbitramento motivado pelas questões a que se refere a presente Convenção se realisará perante um Chefe de Estado ou um Governo amigo, ou perante um ou mais arbitros sem limitação aos que fazem parte das listas do precitado Tribunal Permanente da Haya.

Artigo II.

Em cada caso particular, antes de recorrerem a algum Arbitro singular, ao Tribunal Permanente da Haya ou a outros Arbitros, as duas Altas Partes Contractantes assignarão um compromisso especial que claramente determine a materia do litigio, a extensão dos poderes do Arbitro ou Arbitros e as condições que hajam de ser observadas no tocante aos prazos para a constituição do Tribunal ou a escolha do Arbitro ou Arbitros, assim como aos tramites do processo arbitral.

Fica entendido que os ditos compromissos especiaes serão submettidos, nos dois paizes, ás formalidades requeridas por suas leis constitucionaos.

cuestiones de carácter juridico ó relativas á la interpretación de tratados en vigor, existentes ó que puedan existir entre ambas, y que no haya sido posible arreglar por la via diplomatica, serán sometidas al Tribunal Permanente de Arbitrage establecido en El Haya en virtud del Convenio de 29 de Julio de 1899, siempre que y con tal que dichas cuestiones no afecten los intereses vitales, la independencia ó la honra de los Estados Contratantes y que no atañen los intereses de otro Estado; quedando, además, entendido que, si una de las dos Partes lo prefiere, el arbitraje motivado por las cuestiones á que se refiere el presente Convenio se realizará ante un Jefe de Estado ó un Gobierno amigo ó ante uno ó más Arbitros sin limitación á los que forman parte de las listas del precitado Tribunal Permanente de El Haya.

Artículo II.

En cada caso particular, antes de apelar á algun Arbitro singular, al Tribunal Permanente de El Haya ó á otros Arbitros, las dos Altas Partes Contratantes firmarán un compromiso especial que determine claramente la materia del litigio, el alcance de los poderes del Arbitro ó Arbitros y las condiciones que hayan de ser observadas en lo tocante á los plazos para la constitución del Tribunal, á la elección del Arbitro ó Arbitros, así como á los tramites del procedimiento arbitral.

Queda entendido que dichos compromisos especiales serán sometidos en los dos paises á las formalidades requeridas por sus leyes constitucionales.

Artigo III.

A presente Convenção é concluida para um periodo de cinco annos contados do dia da troca das ratificações. Se não fôr denunciada seis mezes antes do vencimento desse prazo, continuará em vigor durante um novo periodo de cinco annos, e assim successivamente.

Artigo IV.

Preenchidas as formalidades exigidas pelas leis constitucionaes em cada um dos dois paizes, será esta Convenção ratificada e as ratificações trocadas na cidade do Mexico no mais breve prazo possivel.

Em fé do que, nós, os Plenipotenciarios acima nomeados, assignamos o presente instrumento em dois exemplares, cada um em lingua portugueza e hespanhola, appondo nelles os nossos sellos, em Petropolis, aos onze dias do mez de Abril de mil novecentos e nove.

(L. S.) *Rio-Branco.*
(L. S.) *M. J. de Lizardi.*

Artículo III.

Se concluye el presente Convenio por un periodo de cinco años á contar desde el día del canje de las ratificaciones. Si no fuere denunciado seis meses antes de la terminación de ese plazo, continuará en vigor por un nuevo periodo de cinco años, y así sucesivamente.

Artículo IV.

Cumplidas las formalidades exigidas por las leyes constitucionales en cada uno de los dos paises, el presente Convenio será ratificado, y las ratificaciones se canjearán en la ciudad de Mexico tan pronto como sea posible.

En fe de lo cual, nosotros, los Plenipotenciarios arriba nombrados, firmamos el presente instrumento por duplicado, en lengua española y portuguesa, estampando en cada ejemplar nuestros sellos, en Petropolis, el dia once del mes de Abril de mil novecientos nueve.

(L. S.) *M. J. de Lizardi.*
(L. S.) *Rio-Branco.*

50.

BRÉSIL, RUSSIE.

Convention d'arbitrage; signée à Rio de Janeiro, le 26/13 août 1910.*)

Diario oficial do Brazil 1912. No. 148.

Convention d'Arbitrage entre le Brésil et la Russie.

Le Président des Etats Unis du Brésil et Sa Majesté l'Empereur de Toutes les Russies, désirant conclure une Convention d'Arbitrage en application des principes énoncés dans les articles 15 à 19 et 21 de la

*) Les ratifications ont été échangées à Rio de Janeiro, le 11 mai 1912.

Convention pour le règlement pacifique des conflits internationaux, signée à La Haye le 29 juillet 1899,*) et des articles 37 à 40 et 42 de la Convention signée à la même ville de La Haye le 18 octobre 1907,**) ont nommé pour leurs Plénipotentiaires, savoir:

Le Président des Etats Unis du Brésil, Monsieur José Maria da Silva Paranhos do Rio-Branco, Ministre d'Etat des Relations Extérieures; et Sa Majesté l'Empereur de Toutes les Russies, Monsieur Pierre Maximow, Son Conseiller d'Etat actuel et Son Envoyé Extraordinaire et Ministre Plénipotentiaire au Brésil.

Lesquels, dûment autorisés, sont convenus des articles suivants:

Article 1.

Les différends qui viendraient à se produire entre les Hautes Parties Contractantes, dans les cas enumérés à l'article troisième, seront soumis à la Cour Permanente d'Arbitrage établie, par la Convention du 29 juillet 1899, à La Haye, pour autant qu'ils ne touchent ni à l'honneur, ni à l'indépendance ou à la souveraineté des Etats Contractants et qu'une solution amiable n'ait pu être obtenue par des négociations diplomatiques directes ou par toute autre voie de conciliation; étant, en outre, entendu que si l'une des deux Parties Contractantes le préfère, tout arbitrage résultant de la présente Convention sera soumis à un Chef d'Etat, à un gouvernement ami, ou à un ou plusieurs arbitres choisis en dehors des listes du Tribunal de La Haye.

Article 2.

Il appartient à chacune des Hautes Parties Contractantes d'apprécier si le différend qui se sera produit met en cause son honneur, son indépendance ou sa souveraineté et, par conséquent, est de nature à être compris parmi ceux qui, d'après l'article précédent, sont exceptés de l'arbitrage obligatoire.

Article 3.

Sous les réserves indiquées aux articles 1 et 2 l'arbitrage sera obligatoire pour les deux Hautes Parties Contractantes dans les cas suivants:

I. En cas de contestations lorsqu'il s'agit de l'interprétation ou de l'application de toute convention conclue ou à conclure entre les Hautes Parties Contractantes et relatives:

1. Aux matières de droit international privé.
2. Au régime des sociétés commerciales et industrielles légalement constituées dans l'un des pays.
3. Aux matières de procédure soit civile soit pénale et à l'extradition.

II. En cas de contestations concernant des réclamations pécuniaires lorsque l'obligation de verser une indemnité ou un autre payement quelconque est reconnu en principe par les Parties.

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*) V. N. R. G. 2. s. XXVI, p. 920.
**) V. N. R. G. 3. s. III, p. 360.

Article 4.

Il est entendu que les articles précédents ne seront pas applicables aux différends qui pourraient s'élever entre un ressortissant de l'une des Parties et l'autre Etat Contractant lorsque les tribunaux auront, d'après la législation de cet Etat, compétence pour juger la contestation.

Article 5.

Aucun des arbitres ne pourra être sujet des Etats signataires de la présente Convention, ni domicilié dans leurs territoires. Ils ne devront avoir aucun intérêt dans les questions qui feront l'objet de l'arbitrage.

Article 6.

Dans chaque cas particulier les Hautes Parties Contractantes, avant de s'adresser à la Cour Permanente d'Arbitrage ou aux arbitres choisis par elles, signeront un compromis spécial dans la forme prévue à l'article 52 de la Convention du 18 octobre 1907 pour le règlement pacifique des conflits internationaux, déterminant nettement l'objet du litige, l'étendue des pouvoirs des arbitres ou du Tribunal Arbitral et les conditions à observer en ce qui concerne les délais pour la constitution du Tribunal ou le choix des arbitres, ainsi que les règles de la procédure.

Ces compromis spéciaux ne deviendront obligatoires que lorsqu'ils seront confirmés par un échange de notes entre les deux Gouvernements.

Article 7.

La sentence arbitrale contiendra l'indication des délais dans lesquels elle devra être exécutée.

Article 8.

A défaut de clauses compromissoires contraires, les Hautes Parties Contractantes se conformeront, pour tout ce qui concerne la procédure arbitrale, aux dispositions établies par la Convention signée à La Haye le 18 Octobre 1907 pour le règlement pacifique des conflits internationaux, le Brésil maintenant ses réserves sur l'article 53, alinéas 2, 3 et 4 de la dite Convention et sur l'article 54.

Article 9.

La présente Convention est conclue pour la durée de dix ans. Elle entrera en vigueur un mois après l'échange des ratifications. Dans le cas où aucune des Hautes Parties Contractantes n'aurait notifié, six mois avant la fin de la dite période, son intention d'en faire cesser les effets, la Convention demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Hautes Parties Contractantes l'aura dénoncée.

Article 10.

La présente Convention sera ratifiée dans le plus bref délai possible et les ratifications seront échangées à Rio de Janeiro.

En foi de quoi, nous, les Plénipotentiaires ci-dessus nommés, nous signons le présent instrument en deux exemplaires et y apposons nos cachets.

Fait à Rio de Janeiro, le vingt six (treize) août mil neuf cent dix.

(L. S.) *Rio-Branco.*
(L. S.) *P. Maximow.*

51.

BRÉSIL, EQUATEUR.

Convention d'arbitrage; signée à Washington, le 13 mai 1909.*)

Diario oficial do Brazil 1912. No. 148.

O Presidente dos Estados Unidos do Brazil e o Presidente da Republica do Equador, desejando concluir uma Convenção de Arbitramento de accordo com os principios enunciados nos Artigos de numeros XV a XIX e do Artigo XXI da Convenção para o concerto pacifico dos conflictos internacionaes assignada na Haya a 29 de julho de 1899**) e nos Artigos de numeros XXXVII a XL e Artigo XLII da Convenção assignada na mesma cidade da Haya a 19 de outubro de 1907;†) nomearam para este effeito os seguintes Plenipotenciarios, a saber:

O Presidente dos Estados Unidos do Brazil, a Sua Excellencia o Senhor Joaquim Nabuco, Embaixador Extraordinario e Plenipotenciario dos Estados Unidos do Brazil junto ao Governo dos Estados Unidos da America, Membro do Tribunal Permanente de Arbitramento da Haya;

El Presidente de la República del Ecuador y el Presidente de los Estados Unidos del Brasil, deseando concluir una Convención do Arbitraje de acuerdo con los principios enunciados en los Artículos de números XV á XIX e en el Artículo XXI de la Convención para el arreglo pacífico de los conflictos internacionales, firmada en La Haya el 29 de Julio de 1899,**) y en los Artículos de números XXXVII á XL y en el Artículo XLII de la Convención firmada en la misma ciudad de La Haya el 18 de Octubre de 1907,†) han nombrado para dicho fin los Plenipotenciarios siguientes, á saber:

El Presidente de la República del Ecuador á Su Excelencia el Señor Don Luis Felipe Carbo, Enviado Extraordinario y Ministro Plenipotenciario de la República del Ecuador cerca del Gobierno de los Estados Unidos de América, Miembro del Tribunal Permanente de Arbitraje de La Haya;

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*) Les ratifications ont été échangées à Quito, le 12 février 1912.
**) V. N. R. G. 2. s. XXVI, p. 920. †) V. N. R. G. 3. s. III, p. 360.

O Presidente da Republica do Equador a Sua Excellencia o Senhor Don Luis Felipe Carbo, Enviado Extraordinario e Ministro Plenipotenciario da Republica do Equador junto ao Governo dos Estados Unidos da America, Membro do Tribunal Permanente da Haya;

Os quaes, depois de haverem communicado entre si os seus respectivos poderes, achados em bôa e devida forma, convieram nos seguintes Artigos:

Artigo I.

Os desaccordos que possam occorrer em questões de caracter juridico ou relativos á interpretação de Tratados existentes entre as Duas Altas Partes Contractantes, e que não tenha sido possivel resolver por via diplomatica, serão submettidos ao Tribunal Permanente de Arbitramento da Haya, comtanto, porém, que não affectem os interesses vitaes, a independencia ou a honra das Duas Altas Partes Contractantes, ou ponham em causa interesses de terceiros, e ficando além d'isso entendido que, se uma das Duas Altas Partes Contractantes o preferir, qualquer arbitramento de que trata esta Convenção terá logar perante o Chefe de um Estado amigo ou arbitros escolhidos sem limitação ás listas do referido Tribunal Permanente de Arbitramento da Haya.

Artigo II.

Em cada caso particular, as Duas Altas Partes Contractantes, antes de recorrerem ao Tribunal Permanente de Arbitramento da Haya ou a outros arbitros ou arbitro singular, assignarão um compromisso especial que determine claramente a materia em litigio, a extensão dos poderes do arbitro ou

El Presidente de los Estados Unidos del Brasil á Su Excelencia el Señor Joaquim Nabuco, Embajador Extraordinario, y Plenipotenciario de los Estados Unidos del Brasil cerca del Gobierno de los Estados Unidos de América, Miembro del Tribunal Permanente de Arbitraje de La Haya;

Los cuales, después de haberse comunicado entre sí sus respectivos poderes, hallados en buena y debida forma, convinieron en los siguientes Artículos:

Artículo I.

Las diferencias de carácter legal ó relativas á la interpretación de Tratados existentes entre las Dos Altas Partes Contratantes que puedan suscitarse entre ellas y que no haya sido posible arreglar por la vía diplomática, serán sometidas al Tribunal Permanente de Arbitraje de La Haya, con tal que no afecten los intereses vitales, la independencia ó la honra de las Dos Altas Partes Contratantes y no atañen los intereses de terceras Partes, y quedando además entendido que, en el caso de que una de las Dos Altas Partes Contratantes lo juzgase preferibe, cualquier arbitraje de que trata esta Convención, tendrá lugar ante el Jefe de un Estado amigo ó ante árbitros escogidos sin sujetarse al personal del referido Tribunal Permanente de Arbitraje de La Haya.

Artículo II.

En cada uno de los casos, las Dos Altas Partes Contratantes, antes de apelar al Tribunal Permanente de Arbitraje de La Haya ó á otros árbitros ó árbitro, firmarán un compromiso especial que determine claramente la materia del litigio, el alcance de los poderes del árbitro ó

arbitros e os prazos que hajam de ser estabelecidos para a constituição do tribunal ou escolha do arbitro ou dos arbitros e os diversos tramites do processo arbitral. Fica entendido que esse compromisso especial ficará sujeito nos dois paizes ás formalidades exigidas pelas leis constitucionaes de cada um delles.

Artigo III.

A presente Convenção vigorará por um periodo de cinco annos, contados do dia em que forem trocadas as ratificações, e, se não fôr denunciada seis mezes antes da extincção do prazo acima estabelecido, ficará renovada por um outro periodo de cinco annos, e assim por deante, successivamente.

Artigo IV.

A presente Convenção será ratificada pelo Presidente dos Estados Unidos do Brazil com a autorisação do Congresso Federal e pelo Presidente da Republica do Equador com a autorização do Congresso do Equador. As ratificações serão trocadas na cidade de Washington no mais breve prazo possivel, e a Convenção começará a vigorar logo em seguida á troca das ratificações.

Em fé do que, nós, os Plenipotenciarios acima nomeados, assignamos o presente instrumento em dois exemplares, nas linguas portugueza e hespanhola, appondo n'elles os nossos sellos.

Feito na cidade de Washington a treze de Maio de mil novecentos e nove.

de los árbitros y los plazos que se fijen para la formación del tribunal ó elección del árbitro ó de los árbitros y los distintos trámites del proceso arbitral. Queda entendida que ese compromiso especial quederá sometido en los dos paises a las formalidades que exijen las leyes constitucionales de cada uno de ellos.

Artículo III.

La presente Convención quedará en vigor por un período de cinco años, á contar desde el día del canje de las ratificaciones, y, á menos que sea denunciada seis meses antes de la terminación del plazo aquí establecido, quedará renovada por otro período de cinco años, y así en adelante, sucesivamente.

Artículo IV.

La presente Convención será ratificada por el Presidente de la República del Ecuador con la autorización del Congreso Nacional del Ecuador y por el Presidente de los Estados Unidos del Brasil con la autorización del Congreso Federal. Las ratificaciones serán canjeadas on la ciudad de Washington tan pronto como sea posible y la Convención comenzará á regir desde el canje de las ratificaciones.

En fe de lo cual, nosotros, los Plenipotenciarios antes nombrados, hemos firmado y sellado el presente instrumento en dos ejemplares, en las lenguas castellana y portuguesa.

Hecho en la ciudad de Washington el treze de Mayo del año mil novecentos nueve.

(L. S.) *Joaquim Nabuco.*
(L. S.) *L. F. Carbo.*

E tendo sido a mesma Convenção, cujo teor fica acima transcripto, approvada pelo Congresso Nacional, a confirmo e ratifico e, pela presente, a dou por firme e valiosa pera produzir os seus devidos effeitos, promettendo que ella será cumprida inviolavelmente.

Em firmeza do que, mandei passar esta Carta, que assigno e é sellada com o sello das Armas da Republica e subscripta pelo Ministro de Estado das Relações Exteriores.

Dada no Palacio de Presidencia, no Rio de Janeiro, aos nove dias do mez de Março de mil novecentos e onze, 90⁰ da Independencia e 23⁰ da Republica.

(L. S.) *Hermes R. da Fonseca.*
(L. S.) *Rio-Branco.*

52.

BRÉSIL, PÉROU.

Convention d'arbitrage; signée à Pétropolis, le 7 décembre 1909.*)

Diario oficial do Brazil 1912, p. 8130.

Tratado de Arbitramento entre os Estados Unidos do Brasil e o Perú.

O Governo da Republica dos Estados Unidos do Brasil e o Governo da Republica do Perú, querendo firmar sobre bases permanentes as relações de antiga amizade e boa visinhança que felizmente existem entre os dois paizes, deliberaram celebrar um Tratado de Arbitramento Geral, e, para esse fim, nomearam Plenipotenciarios, a saber:

O Governo dos Estados Unidos do Brasil, o Senhor Doutor José Maria da Silva Paranhos do Rio-Branco, Ministro de Estado das Relações Exteriores da mesma Republica; e

Tratado de Arbitraje entre el Perú y los Estados Unidos del Brasil.

El Gobierno de la República del Perú y el Gobierno de la República de los Estados Unidos del Brasil, queriendo afirmar sobre bases permanentes las relaciones de antigua amistad y buena vecindad, que felizmente existen entre los dos paises, resolvieron celebrar un Tratado de Arbitraje General, y, para ese fin, nombraron Plenipotenciarios, á saber:

El Gobierno de la República del Perú al Señor Doctor Don Hernán Velarde, Enviado Extraordinario y Ministro Plenipotenciario en el Brasil; y

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*) Les ratifications ont été échangées à Rio de Janeiro, le 13 janvier 1912.

O Governo da Republica do Perú o Senhor Doutor Hernán Velarde, Enviado Extraordinario e Ministro Plenipotenciario no Brasil;

Os quaes, devidamente autorisados, concordaram nos artigos seguintes:

Artigo I.

As Altas Partes Contractantes obrigram-se a submetter a arbitramento as controversias que surjam entre ellas e que não tenham podido resolver-se por negociações directas ou por algum dos outros meios de resolver amigavelmente litigios internacionaes, comtanto que taes controversias não entendam com interesses vitaes, a integridade territorial, a soberania ou a honra dos dois Estados.

Artigo II.

Não serão renovadas, em virtude deste Tratado, as questões que hajam sido objecto de accordos definitivos entre as Partes, só podendo ser submettidas a arbitramento as controversias que se suscitem sobre a interpretação ou a execução de taes accôrdos.

Artigo III.

Em cada caso particular, as Altas Partes Contractantes assignarão um Compromisso especial estabelecendo claramente o objecto do litigio, a extensão dos poderes do Arbitro ou Arbitros e as regras do processo.

Fica entendido que esses Compromissos especiaes serão approvados e ratificados nas duas Republicas conforme as suas leis respectivas.

El Gobierno de los Estados Unidos del Brasil, al Señor Doctor Don José Maria da Silva Paranhos do Rio-Branco, Ministro de Estado en el despacho de Relaciones Exteriores de la misma República;

Los cuales, debidamente autorizados, concordaron en los artículos siguientes:

Artículo I.

Las Altas Partes Contratantes se obligan á someter á arbitraje las controversias que surjan entre ellas y que no hayan podido resolver por negociaciones directas ó por alguno de los otros medios de solucionar amigablemente litigios internacionales, con tal de que tales controversias no versen sobre cuestiones que afecten los intereses vitales, la integridad territorial, la soberanía ó la honra de uno de los dos Estados.

Artículo II.

No serán renovadas, en virtud de este Tratado, las cuestiones que hayan sido objeto de acuerdos definitivos entre las Partes, pudiendo sólo ser sometidas á arbitraje las controversias que se susciten sobre la interpretación ó la ejecución de tales acuerdos.

Artículo III.

En cada caso particular, las Altas Partes Contratantes firmarán un Compromiso especial estableciendo claramente el objeto del litigio, la amplitud de los poderes del Arbitro ó Arbitros y las reglas del procedimiento.

Queda entendído que esos Compromisos especiales serán aprobados y ratificados en cada una de las dos Repúblicas conforme á sus leyes respectivas.

Artigo IV.

Na falta de estipulações especiaes entre as Partes, pertencerá ao Arbitro ou Arbitros nomeados: indicar a época e logar das sessões, fóra do territorio dos Estados Contractantes; escolher o idioma que se deverá empregar; determinar os methodos de instrucção, as regras de processo, as formalidades e prazos a que as Partes se devam sujeitar; e, em geral, adoptar todas as medidas que sejam necessarias para o bom exercicio das suas funcções, assim como para resolver quaesquer difficuldades que a tal respeito possam surgir no decurso da causa.

Os dois Governos se obrigam a dar ao Arbitro ou Arbitros todos os meios de informação de que possam dispôr.

Artigo V.

A designação do Arbitro ou Arbitros poderá ser feita no Compromisso especial ou em instrumento separado, depois que o eleito ou eleitos declarem aceitar a missão.

Artigo VI.

Se ficar assentado que a questão seja submettida a um Tribunal Arbitral, cada uma das Altas Partes Contractantes proporá um Arbitro, cuja nomeação só será definitiva com a annuencia da outra. Os dois Arbitros nomeados escolherão o terceiro, que será o Presidente do Tribunal.

No caso de desaccordo sobre a eleição do Terceiro Arbitro, os dois Governos pedirão ao Presidente da Republica Franceza que faça a nomeação.

Artículo IV.

A falta de estipulación especial entre las Partes, corresponderá al Arbitro ó Arbitros nombrados: indicar la época y el lugar de las sesiones, fuera del territorio de los Estados Contratantes; elegir el idioma que se deberá emplear; determinar los métodos de instrucción, las reglas del procedimiento, las formalidades y plazos á que las Partes deban sujetarse; y, en general, adoptar todas las medidas que sean necesarias para el buen ejercicio de sus funciones, así como resolver cualesquiera dificultades que al respecto puedan surgir en el curso de la causa.

Los dos Gobiernos se obligan á suministrar al Arbitro ó Arbitros todos los medios de información de que puedan disponer.

Artículo V.

La designación del Arbitro ó Arbitros podrá hacerse en el Compromiso especial ó en instrumento separado, después que el elegido ó los elegidos declaren aceptar el cargo.

Artículo VI.

Si se conveniese que la controversia fuese sometida á un Tribunal Arbitral, cada una de las Altas Partes Contratantes propondrá un Arbitro, cuyo nombramiento sólo será definitivo con el consentimiento de la otra. Los dos Arbitros nombrados eligirán á un tercero, que será el Presidente del Tribunal.

En el caso de desacuerdo sobre la elección del Tercer Arbitro, los dos Gobiernos pedirán al Presidente de la República Francesa que haga el nombramiento.

Artigo VII.

Cada uma das Partes poderá constituir um ou mais representantes que defendam a sua causa perante o Arbitro ou o Tribunal Arbitral.

Artigo VIII.

Os desaccordos que surjam entre as Partes, na pendencia da lide, sobre a amplitude da jurisdicção arbitral, serão resolvidos pelo proprio Arbitro ou Tribunal.

O Tribunal Arbitral tem competencia para resolver sobre a regularidade da sua propria constituição.

Artigo IX.

O Arbitro ou Tribunal Arbitral deverá dar o seu laudo conforme os principios do Direito Internacional, ou segundo as regras especiaes que as duas Partes hajam estabelecido, ou *ex aequo et bono*, isto é, de accordo com os poderes que lhe tenham sido conferidos no Compromisso.

Artigo X.

O Tribunal funccionará estando presentes os tres Arbitros e suas decisões serão tomadas por unanimidade ou por maioria de votos.

O voto concorde dos dois Arbitros primeiramente escolhidos resolverá a questão ou as questões submettidas ao Tribunal. No caso de divergencia entre esses dois Arbitros, o Presidente, ou Terceiro Arbitro, adoptará um dos dois votos ou dará o seu proprio, que será o decisivo.

Faltando um dos Arbitros, serão suspensas as sessões do Tribunal até que compareça o ausente; porém, se depois de devidamente citado, o Arbitro ausente deixar de concorrer ás deliberações ou a outros actos do processo, o Tribunal funccionará com

Artículo VII.

Cada una de las Partes constituirá uno ó más representantes que defiendan su causa ante el Arbitro ó el Tribunal Arbitral.

Artículo VIII.

Los desacuerdos que surgiesen entre las Partes, en el curso del litigio, sobre el alcance de la jurisdicción arbitral, serán resueltos por el mismo Arbitro ó Tribunal.

El Tribunal Arbitral es competente para resolver sobre la regularidad de su propia constitución.

Artículo IX.

El Arbitro ó Tribunal Arbitral deberá dar su fallo conforme á los principios del Derecho Internacional, ó según las reglas especiales que las dos Partes hayan establecido, ó *ex aequo et bono;* esto es, con sujeción á los poderes que le hayan sido conferidos en el Compromiso.

Artículo X.

El Tribunal funcionará estando presentes los tres Arbitros y sus decisiones serán adoptadas por unanimidad ó por mayoria de votos.

El voto conforme de los dos Arbitros primeramente elegidos, resolverá la cuestión ó las cuestiones sometidas al Tribunal. En caso de divergencia entre esos dos Arbitros, el Presidente, ó Tercer Arbitro, adoptará uno de los dos votos ó dará el suyo propio, que será el decisivo.

Faltando uno de los Arbitros se suspenderán las sesiones del Tribunal hasta que comparezca el ausente; pero si el Arbitro ausente, después de debidamente citado, dejase de concurrir á las deliberaciones ó á otros actos del procedimiento, el Tribunal

os dois presentes, fazendo-se constar na acta a ausencia do outro.

Se o Arbitro ausente fôr o Presidente suspender-se-ão os trabalhos do Tribunal até que possa comparecer ou ser substituido do modo estabelecido no artigo sexto.

Artigo XI.

A sentença resolverá definitivamente todos os pontos em litigio e será lavrada em dois exemplares, assignados pelo Arbitro unico ou pelos tres membros do Tribunal Arbitral. Se algum desses tres membros recusar subscrevel-a, os outros dois farão constar isso em acta especial por elles firmada.

As sentenças serão ou não fundamentadas, conforme ficar estabelecido no respectivo Compromisso especial.

Artigo XII.

A sentença deverá ser notificada pelo Arbitro ou pelo Tribunal Arbitral ao representante de cada uma das duas Partes.

Artigo XIII.

A sentença devidamente pronunciada põe termo, nos limites do seu alcance, ao litigio entre as Partes. Na mesma sentença se determinará o prazo dentro do qual deva ser executada.

Artigo XIV.

Cada um dos Estados Contractantes obriga-se a observar e cumprir lealmente a sentença arbitral.

Artigo XV.

As questões que se suscitem sobre a execução da sentença serão resolvidas pelo mesmo Arbitro ou Tribunal

funcionará con los dos presentes haciéndose constar en acta la ausencia del otro.

Si el Arbitro ausente fuese el Presidente se suspenderán igualmente las funciones del Tribunal hasta que se reíncorpore ó sea reemplazado en la forma establecida en el artículo sexto.

Artículo XI.

La sentencia resolverá definitivamente todos los puntos en litigio y será extendida en dos ejemplares firmados por el Arbitro único ó por los tres miembros del Tribunal Arbitral. Si alguno de estos miembros rehusara suscribirla, los otros dos lo harán constar así en acta especial firmada por ambos.

Las sentencias serán ó no fundadas, conforme se establezoa en el respectivo Compromiso especial.

Artículo XII.

La sentencia deberá ser notificada por el Arbitro ó por el Presidente del Tribunal Arbitral al representante de cada una de las Partes.

Artículo XIII.

La sentencia debidamente pronunciada pone término, en los límites de su alcance, al litigio entre las Partes. En la misma sentencia se determinará el plazo dentro del cual deba ser ejecutada.

Artículo XIV.

Cada uno de los Estados Contratantes se obliga á observar y cumplir lealmente la sentencia arbitral.

Artículo XV.

Las cuestiones que se susciten sobre la ejecución de la sentencia serán resueltas por el mismo Arbitro ó

Arbitral que a houver pronunciado, e se isso não fôr possivel serão submettidas á decisão de outro Arbitro.

Artigo XVI.

Se, antes de terminada a execução da sentença, alguma das duas Partes interessadas tiver conhecimento da falsidade ou adulteração de qualquer documento que tenha servido de base á sentença, ou verificar que esta, no todo ou em parte, foi motivada por um erro de facto, poderá interpôr recurso de revisão perante o mesmo Arbitro ou Tribunal.

Artigo XVII.

Cada uma das Partes supportará as despesas que fizer com a sua representação e defesa e pagará a metade das despesas geraes do arbitramento.

Artigo XVIII.

Fica entendido que as excepções estabelecidas na segunda parte do artigo primeiro do presente Tratado em nada attingem o disposto nos artigos terceiro e oitavo do Tratado de Limites concluido no Rio de Janeiro, entre o Perú e o Brasil, em oito de Setembro do presente anno, estipulações essas que continuarão em pleno vigor.

Artigo XIX.

As ratificações deste Tratado, que deverá ser approvado pelo Poder Legislativo de cada uma das duas Republicas, serão trocadas na cidade do Rio de Janeiro ou na de Lima, no mais breve prazo possivel.

Artigo XX.

O presente Tratado vigorará per dez annos, contados da data da troca das ratificações. Se não fôr denun-

Tribunal Arbitral que la hubiese pronunciado, y si esto no fuese posible, se someterán á la decisión de otro Arbitro.

Artículo XVI.

Si, antes de terminada la ejecución de la sentencia, alguna de las dos Partes interesadas tuviera conocimiento de la falsedad ó adulteración de cualquier documento, que haya servido de base á la sentencia, ó verificara que esta, en todo ó en parte, fué motivada por un error de hecho, podrá interponer recurso de revisión ante el mismo Arbitro ó Tribunal.

Artículo XVII.

Cada una de las Partes sufragará los gastos que hiciera en su representación y defensa, y pagará la mitad de los gastos generales del arbitraje.

Artículo XVIII.

Queda entendido que las excepciones establecidas en la segunda parte del artículo primero del presente Tratado no afectan lo dispuesto en los artículos tercero y octavo del Tratado de Límites suscrito en Rio de Janeiro, entre el Perú y el Brasil, el ocho de Setiembre del presente año; estipulaciones esas que continuarán en entero vigor.

Artículo XIX.

Las ratificaciones de este Tratado, que deberá ser aprobado por el Poder Legislativo de cada una de las dos Repúblicas, serán canjeadas en la ciudad de Lima ó en la de Rio de Janeiro en el más breve plazo posible.

Artículo XX.

El presente Tratado regirá por diez años, contados desde la fecha del canje de las ratificaciones. Si no

ciado seis mezes antes do vencimento do prazo, será renovado por outro periodo de dez annos e assim successivamente.

Em fé do que, nós, os Plenipotenciarios acima nomeados, assignamos o presente instrumento em dois exemplares, cada um nas linguas portugueza e castelhana, appondo nelles os nossos sellos.

Feito na cidade de Petropolis, aos sete dias do mez de Dezembro de mil novecentos e nove.

(L.S.) *Rio-Branco.*
(L.S.) *Hernán Velarde.*

fuera denunciado seis meses antes del vencimiento del plazo, se considerará renovado por otro periodo de diez años y así sucesivamente.

En fé de lo cual, nosotros, los Plenipotenciarios arriba nombrados, firmamos el presente instrumento en dos ejemplares, cada uno en las lenguas castellana y portugueza, sellandolos con nuestros sellos.

Hecho en la ciudad de Petropolis, á los siete dias del mes de Diciembre de mil novecientos nueve.

(L. S.) *Hernán Velarde.*
(L. S.) *Rio-Branco.*

53.

GRANDE-BRETAGNE, ETATS-UNIS D'AMÉRIQUE.

Arrangement concernant le règlement des réclamations respectives par voie d'arbitrage; signé à Washington, le 18 août 1910, suivi d'une Liste des réclamations pas encore décidées, dressée le 6 juillet 1911 et d'un Echange de notes du 26 avril 1912.

Treaty Series 1912. No. 11.

Agreement between the United Kingdom and the United States of America for the settlement of certain pecuniary claims outstanding between the two countries.

Whereas Great Britain and the United States are signatories of the Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes,*) and are desirous that certain pecuniary claims outstanding between them should be referred to arbitration, as recommended by Article 38 of that Convention:

Now, therefore, it is agreed that such claims as are contained in the Schedules drawn up as hereinafter provided shall be referred to arbitration

*) V. N. R. G. 3. s. III, p. 360.

under Chapter IV of the said Convention, and subject to the following provisions:

Article 1.

Either party may, at any time within four months from the date of the confirmation of this Agreement, present to the other party any claims which it desires to submit to arbitration. The claims so presented shall, if agreed upon by both parties, unless reserved as hereinafter provided, be submitted to arbitration in accordance with the provisions of this Agreement. They shall be grouped in one or more Schedules, which, on the part of the United States, shall be agreed on by and with the advice and consent of the Senate, His Majesty's Government reserving the right before agreeing to the inclusion of any claim affecting the interests of a self-governing Dominion of the British Empire to obtain the concurrence thereto of the Government of that Dominion.

Either party shall have the right to reserve for further examination any claims so presented for inclusion in the Schedules; and any claims so reserved shall not be prejudiced or barred by reason of anything contained in this Agreement.

Article 2.

All claims outstanding between the two Governments at the date of the signature of this Agreement and originating in circumstances or transactions anterior to that date, whether submitted to arbitration or not, shall thereafter be considered as finally barred, unless reserved by either party for further examination, as provided in Article 1.

Article 3.

The arbitral tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention, which are as follows:

„Article 87. Each of the parties in dispute appoints an arbitrator. The two arbitrators thus selected choose an umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court, exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the umpire is determined by lot.

„The umpire presides over the tribunal, which gives its decision by a majority of votes."

„Article 59. Should one of the arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him."

Article 4.

The proceedings shall be regulated by so much of Chapter IV of the Convention and of Chapter III, excepting Articles 53 and 54, as the

tribunal may consider to be applicable and to be consistent with the provisions of this Agreement.

Article 5.

The tribunal is entitled, as provided in Article 74 (Chapter III) of the Convention, to issue rules of procedure for the conduct of business, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all formalities required for dealing with the evidence.

The agents and counsel of the parties are authorised, as provided in Article 70 (Chapter III), to present orally and in writing to the tribunal all the arguments they may consider expedient in support or in defence of each claim.

The tribunal shall keep record of the claims submitted and the proceedings thereon, with the dates of such proceedings. Each Government may appoint a secretary. These secretaries shall act together as joint secretaries of the tribunal and shall be subject to its direction. The tribunal may appoint and employ any other necessary officer or officers to assist it in the performance of its duties.

The tribunal shall decide all claims submitted upon such evidence or information as may be furnished by either Government.

The tribunal is authorised to administer oaths to witnesses and to take evidence on oath.

The proceedings shall be in English.

Article 6.

The tribunal shall meet at Washington at a date to be hereafter fixed by the two Governments, and may fix the time and place of subsequent meetings as may be convenient, subject always to special direction of the two Governments.

Article 7.

Each member of the tribunal, upon assuming the function of his office, shall make and subscribe a solemn declaration in writing that he will carefully examine and impartially decide, in accordance with treaty rights and with the principles of international law and of equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the tribunal.

Article 8.

All sums of money which may be awarded by the tribunal on account of any claim shall be paid by the one Government to the other, as the case may be, within eighteen months after the date of the final award, without interest and without deduction, save as specified in the next Article.

Article 9.

Each Government shall bear its own expenses. The expenses of the tribunal shall be defrayed by a rateable deduction on the amount of the

sums awarded by it, at a rate of 5 per cent. on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moities by the two Governments.

Article 10.

The present Agreement, and also any Schedules agreed thereunder, shall be binding only when confirmed by the two Governments by an exchange of notes.

In witness whereof this Agreement has been signed and sealed by His Britannic Majesty's Ambassador at Washington, the Right Honourable James Bryce, O.M., on behalf of Great Britain, and by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States.

Done in duplicate at the city of Washington, this 18th day of August, 1910.

(L. S.) *James Bryce.*
(L. S.) *Philander C. Knox.*

First Schedule of Claims.

First Schedule of Claims to be submitted to arbitration in accordance with the provisions of the Special Agreement for the submission to arbitration of Pecuniary Claims outstanding between Great Britain and the United States, signed on the 18th day of August, 1910, and the terms of such submission.

Class I. Claims based on alleged denial in whole or in part of real property rights.

British.	American.
Cayuga Indians, Rio Grande.	Webster, Studer, R. E. Brown, Samuel Clark.
	Fijian Land Claims.
	Burt, Henry, Brower, Williams.

Class II. Claims based on the acts of the authorities of either Government in regard to the vessels of the nationals of the other Government, or for the alleged wrongful collection or receipt of customs duties or other charges by the authorities of either Government.

British.	American.
Shipping Claims.	*Fishing Claims.*
Coquitlan, Favourite, Wanderer, Kate, Lord Nelson, Canadienne, Eastry, Lindisfarne, Newchwang, Sidra, Maroa, Thomas F. Bayard, Jessie, Peschawa.	Group I.
	Against Newfoundland
	Cunningham and Thompson (18 vessels)—Masconomo, Arbutus, Anglo-

Canadian Claims for Refund of Hay Duties.

Peter Anderson, Charles Arpin, Nathaniel Bachelder, Magloire G. Blain, Toussaint Bourassa, continuing partner of Bourassa and Forrester; Pierre Bourgeois, William Burland and Co., Charles S. Rowe, surviving partner; Frederick Catudal; L. N. Charlebois, heir and assignee of Denis N. Charlebois; Joseph Couture; Wilfrid Dorais, heir of Louis T. Dorais; John and Francis Ewing, John Ewing, surviving partner; Joseph Jean Baptiste Gosselin, heirs of Joseph A. Lamoureux, deceased.

Saxon, Quickstep, Nourmahal, Puritan, Talisman, Norma, Norumbega, Aloha, Ingomar, Jennie B. Hodgdon, Arkona, Arethusa, Independence II, S. P. Willard, Corona, Saladin.

Davis Brothers (10 vessels)—Oregon, Margaret, Theo. Roosevelt, L. M. Stanwood, Georgie Campbell, Blanche, Veda McKown, E. A. Perkins, Kearsarge, Lena and Maud.

Wm. H. Parsons (12 vessels)—Corsair, Grace L. Fears, Argo, Lizzie Griffin, Independence, Independence II, Dreadnought, Robin Hood, Helen G. Wells, Colonial, Alice M. Parsons, Mildred V. Lee.

Gorton-Pew Company (37 vessels)—A. M. Parker, Priscilla Smith, Senator Gardner, Corsair, Vigilant, Harry A. Nickerson, Gossip, Flirt, Ella G. King, Helen G. Wells, Ramona, Massachusetts, Ellen C. Burke, J. J. Flaherty, Geo. R. Alston, Maxine Elliott, Vera, Orinoco, Miranda, Madonna, Atlanta, Gov. Russell, Mystery, Jas. A. Garfield, L. I. Lowell, Dora A. Lawson, Tattler, Alice R. Lawson, Olga, J. R. Bradley, Fannie Smith, Rob Roy, Smuggler, Essex, Athlete, Valkyria, Sceptre.

W. H. Jordan (6 vessels)—Lewis H. Giles, O. W. Holmes, The Gatherer, Hattie E. Worcester, Golden Rod, Joseph Rowe.

Orlando Merchant (16 vessels)—Avalon, Constellation, O. W. Holmes, Golden Rod, Grayling, Joseph Rowe, Harvard, Mary E. Harty, Harriet W. Babson, Richard Wainwright, Henry M. Stanley, Lewis H. Giles, Lottie G. Merchant, Oriole, Clintonia, Esperanto.

Jerome McDonald (3 vessels)—Preceptor, Gladiator, Monitor.

John Pew and Sons (5 vessels)—A. E. Whyland, Essex, Columbia, Orinoco, Sceptre.

D. B. Smith and Co. (12 vessels)—Smuggler, Lucinda I. Lowell, Helen F. Whittier, Dora A. Lawson, Carrie W. Babson, Golden Hope, Fernwood, Sen. Gardner, Maxine Elliott, J. J. Flaherty, Tattler, Stranger.

Sylvanus Smith and Co. (7 vessels)—Lucile, Bohemia, Claudia, Arcadia, Parthia, Arabia, Sylvania.

John Chisolm (5 vessels)—Admiral Dewey, Harry G. French, Monarch, Judique, Conqueror.

Carl C. Young (3 vessels)—Dauntless, A. E. Whyland, William E. Morrissey.

Hugh Pankhurst and Co. (6 vessels)—Rival, Arthur D. Story, Patrician, Geo. Parker, Sen. Saulsbury, Diana.

A. D. Mallock (3 vessels)—Indiana, Alert, Edna Wallace Hopper.

Thomas M. Nickolson (13 vessels)—Ada S. Babson, Elizabeth N., Hiram Lowell, M. B. Stetson, A. V. S. Woodruff, T. M. Nickolson, Landseer, Edgar S. Foster, A. M. Nickolson, Wm. Matheson, Robin Hood, Annie G. Quinner, N. E. Symonds.

M. J. Palson (3 vessels)—Barge Tillid, schooner J. K. Manning, tug Clarita.

M. J. Dillon (1 vessel)—Edith Emery.

Russell D. Terry (1 vessel)—Centennial.

Lemuel E. Spinney (3 vessels)—American, Arbitrator, Dictator.

Wm. H. Thomas (2 vessels)—Elmer E. Gray, Thos. L. Gorton.

Frank H. Hall (3 vessels)—Ralph H. Hall, Sarah E. Lee, Faustina.

M. Walen and Son (7 vessels)—Kentucky, Effie W. Prior, Orpheus, Hattie A. Heckman, Ella M. Goodsin, Bessie N. Devine, Arthur James.

Atlantic Maritime Company (7 vessels)—James W. Parker, Raynah,

Susan and Mary, Elsie, Fannie E. Prescott, E. E. Gray, Mildred Robinson.

Waldo I. Wonson (5 vessels)—American, Mystery, Procyon, Effie M. Morrissey, Marguerite.

Edward Trevoy (1 vessel)—Edward Trevoy.

Henry Atwood (1 vessel)—Fannie B. Atwood.

Fred Thompson (1 vessel)—Elsie M. Smith.

Group II.

Against Newfoundland

Bessie M. Wells, Elector, Sarah B. Putnam, A. E. Whyland, N. B. Parker, Thomas F. Bayard, Arethusa, Harry A. Nickerson, Arkona, Edna Wallace Hopper, Athlete.

Fishing Claims.

Against Canada

Frederick Gerring, North, D. J. Adams, R. T. Roy, Tattler, Hurricane, Argonaut, Jonas H. French.

Class III. Claims based on damages to the property of either Government or its nationals, or on personal wrongs of such nationals, alleged to be due to the operations of the military or naval forces of the other Government or to the acts or negligence of the civil authorities of the other Government.

British.

Four Cable Companies Claims.

Cuban Submarine Telegraph Company, Eastern Extension Cable Company, Canadian Electric Light Company, Great North-Western Telegraph Company.

„Philippine War" Claims.

Ackert, Balfour, Broxup, Cundal, Dodson, Fleming, Forbes, Fox, Fyfe, Grace, Grindrod, Hawkins, F., Hawkins, J., Hendery, Hill, Hogge, Holliday, Hong Kong Bank, Iloilo Club,

American.

Home Missionary Society, Daniel Johnson, Union Bridge Company, Madeiros.

Eastern Extension Telegraph Company, Higgins, W., Higgins, N. L., Hoskyn and Co., Kauffman, Ker Bolton and Co., Launders, McLeod, McMeeking, Moore, Philippine Mineral Syndicate, Pohang, Pohoomul, Smith, Stevenson, Strachan, Thomson, Underwood, Warner, Zafiro, C. M. Chiene, N. L. Chiene, Parsons and Walker.	
„Hawaiian" Claims.	
Ashford, Bailey, Harrison, Kenyon, Levy, McDowall, Rawlins, Redward, Reynolds, Thomas.	
Hardman, Wrathall, Cadenhead.	

Class IV. Claims based on contracts between the authorities of either Government and the nationals of the other Government.

British.	American.
King Robert, Yukon Lumber, Hemming.	

Terms of Submission.

1. In case of any claim being put forward by one party which is alleged by the other party to be barred by Treaty, the arbitral tribunal shall first deal with and decide the question whether the claim is so barred, and in the event of a decision that the claim is so barred, the claim shall be disallowed.

2. The arbitral tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim any admission of liability by the Government against whom a claim is put forward.

3. The arbitral tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim, in whole or in part, any failure on the part of the claimants to obtain satisfaction through legal remedies which are open to him or placed at his disposal, but no claim shall be disallowed or rejected by application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity of the claim.

4. The arbitral tribunal, if it considers equitable, may include in its award in respect of any claim interest at a rate not exceeding 4 per cent. per annum for the whole or any part of the period between the date when the claim was first brought to the notice of the other party and that of the confirmation of the Schedule in which it is included.

The foregoing Schedule and terms of submission are agreed upon in pursuance of and subject to the provisions of the Special Agreement for the submission to arbitration of pecuniary claims outstanding between Great Britain and the United States, signed on the 18th day of August, 1910, and require confirmation by the two Governments in accordance with the provisions of that Agreement.

Signed in duplicate at the city of Washington, this 6th day of July, 1911, by His Britannic Majesty's Ambassador at Washington, the Right Honourable James Bryce, O.M., on behalf of Great Britain, and by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States.

James Bryce.
Philander C. Knox.

Exchange of Notes.

(1.)

The Secretary of State of the United States to His Majesty's Ambassador.

Department of State, Washington, April 26, 1912.

Excellency,

I have the honour to inform you that the Senate, by its resolution of the 19th July, 1911, gave its advice and consent to the ratification of the Special Agreement between the United States and Great Britain, signed on the 18th August, 1910, for the submission to arbitration of outstanding pecuniary claims, and also to the ratification of the Schedule of Claims agreed to thereunder on the 6th July, 1911; and I am now prepared to proceed to the exchange of notes confirming this Special Agreement and Schedule of Claims, pursuant to the requirement of Article 10 of the Agreement, that it, and also any Schedules of Claims agreed upon thereunder, shall be binding only when confirmed by the two Governments by an exchange of notes.

As part of the confirmation of the aforesaid Special Agreement and Schedule of Claims, I have the honour to state further that, in order to facilitate the arbitral proceedings to be instituted pursuant thereto, the Government of the United States agrees with the Government of His Britannic Majesty that, whenever the agents of the respective parties shall, prior to or during the progress of the proceedings, enter into an agreement in writing upon a rule or mode of procedure, such agreement shall have the force of an order of the arbitral tribunal, and shall, together with any proceedings taken pursuant thereto, be entered at the next succeeding session of the arbitral tribunal upon its records as part of the proceedings before the tribunal.

I accordingly convey to you herewith the confirmation by the Government of the United States of the Special Agreement and Schedule, under-

standing that your Government is prepared to record its confirmation thereof similarly by a note in acknowledgment of this, the date of your note in acknowledgment being taken as the date of confirmation for the requirements of the provisions of Article 1 of the Special Agreement.

I have, &c.
P. C. Knox.

His Excellency the Right Honourable
James Bryce, O.M.,
Ambassador of Great Britain.

(2.)

His Majesty's Ambassador to the Secretary of State of the United States.

British Embassy, Washington, April 26, 1912.

Sir,

I have the honour to acknowledge the receipt of your note, dated to-day, in which you inform me that the United States Government confirms the Special Agreement and Schedule for the submission to arbitration of pecuniary claims outstanding between Great Britain and the United States, such confirmation being effected by exchange of notes, as provided by Article 10 of the Special Agreement, and being dated as of date of this my note in reply (*i.e.*, the 26th April), for the requirements of the provisions of Article 1.

I am authorised to inform the United States Government that His Majesty's Government are prepared on their part to confirm the Special Agreement and Schedule, and do hereby convey their confirmation thereof in acknowledgment of that contained in your note and pursuant to the provisions of Article 10.

His Majesty's Government further agrees with the United States Government that whenever the agents of the respective parties shall, prior to or during the progress of the proceedings, enter into an agreement in writing upon a rule or mode of procedure, such agreement shall have the force of an order of the arbitral tribunal, and shall, together with any proceedings taken pursuant thereto, be entered at the next succeeding session of the arbitral tribunal upon its records as part of the proceedings before the tribunal.

I have, &c.
James Bryce.

The Honourable P. C. Knox,
Secretary of State, &c. &c. &c.

54.

ITALIE, BOLIVIE.

Traité général d'arbitrage, signé à La Paz, le 17 mai 1911.*)

Gazzetta ufficiale 1912. No. 584.

Trattato generale di arbitrato fra il Regno d'Italia e la Repubblica di Bolivia.

Sua Maestà il Re d'Italia e Sua Eccellenza il Presidente della Repubblica di Bolivia, mossi dal desiderio di stringere sempre piú i vincoli di amicizia che esistono tra i due Paesi, inspirandosi ai principii della Convenzione per il regolamento pacifico dei conflitti internazionali, firmata all'Aja il 29 luglio 1899,**) e desiderando di consacrare, conformemente allo spirito dell'articolo 19 della detta Convenzione, mediante un accordo generale, il principio dell'arbitrato obbligatorio nei loro rapporti reciproci, hanno stabilito di conchiudere una Convenzione a questo fine, ed hanno per ciò nominati loro Plenipotenziarii, e cioè:

Sua Maestà il Re d'Italia:

il Cavaliere ufficiale Ruffillo Agnoli, suo Inviato Straordinario e Ministro Plenipotenziario presso la Repubblica di Bolivia;

Sua Eccellenza il Presidente della Repubblica di Bolivia:

Sua Eccellenza il dottor Claudio Pinilla, suo Ministro di Stato per le Relazioni Estere, i quali, dopo essersi comunicati i loro pieni poteri e averli trovati in buona e debita forma, hanno convenuto quanto segue:

Art. 1.

Le Alte Parti contraenti si obbligano di sottoporre a giudizio arbitrale tutte le controversie che potessero sorgere tra di loro e che non fosse stato possibile risolvere per le vie diplomatiche.

Ciascuno dei due Stati ha, peraltro, la facoltà di non sottoporre all'arbitrato quelle controversie le quali, secondo il suo apprezzamento, mettono in questione l'indipendenza e l'onore nazionale.

Delle controversie che fossero di competenza delle autorità giudiziarie secondo la legge territoriale, le Parti contraenti avranno il diritto di non sottoporre la lite al giudizio arbitrale fino a che la giurisdizione nazionale non si sia pronunciata definitivamente.

Art. 2.

Saranno in ogni caso sottoposte al giudizio arbitrale, senza la riserva di cui all'alinea secondo dell'art. 1^{0}, le controversie relative alle seguenti questioni:

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*) Les ratifications ont été échangées à Rome, le 16 mai 1912.
**) V. N. R. G. 2. s. XXVI, p. 920.

1. Reclami pecuniarî per perdite e danni sofferti da uno degli Stati contraenti o dai suoi nazionali, per effetto di atti illeciti od omissioni dell'altro Stato contraente, delle sue autorità pubbliche e dei loro funzionari;

2. Interpretazione e applicazione delle stipulazioni concernenti materie d'indole esclusivamente giuridica, amministrativa, economica, di commercio e di navigazione;

3. Diniego di giustizia.

La questione, se una data controversia costituisca o no una di quelle espressamente prevedute nei numeri 1, 2, e 3, sarà del pari sottoposta all'arbitrato.

Art. 3.

In ciascun caso particolare, le Alte Parti contraenti firmeranno un compromesso speciale che determinerà l'oggetto della contesa, e, se ne è il caso, la sede del tribunale, la lingua di cui esso si servirà e quelle delle quali sarà consentito l'uso davanti al medesimo, la somma che ciascuna Parte dovrà depositare come anticipazione di spese, la forma e i termini per la costituzione del tribunale e per lo scambio delle memorie e degli atti, e, in generale, tutte le condizioni fra di loro concordate.

In mancanza di compromesso, gli arbitri, nominati secondo le regole di cui agli articoli 4 e 5 del presente trattato, giudicheranno in base alle pretese che saranno loro sottoposte.

Per tutto il rimanente e in mancanza d'accordo speciale, si osserveranno le disposizioni stabilite dalla Convenzione per il regolamento pacifico dei conflitti internazionali firmata all'Aja il 29 luglio 1899, con le modificazioni e le aggiunte contenute nei seguenti articoli.

Art. 4.

Salvo stipulazione in contrario, il tribunale sarà composto di tre membri. Le due Parti ne nomineranno uno per ciascuna, e si accorderanno per la scelta del terzo arbitro. Se l'accordo su questo punto non è possibile, le Parti si rivolgeranno ad una terza Potenza perchè ne faccia la designazione, e, in mancanza d'accordo anche su di ciò, richiesta a questo scopo sarà fatta a sua Maestà la Regina dei Paesi Bassi o ai suoi successori.

Il terzo arbitro sarà scelto nell'elenco dei membri della Corte permanente d'arbitrato stabilita dalla detta Convenzione dell'Aja. Nessuno degli arbitri potrà essere cittadino di una delle due Parti, nè aver domicilio o residenza nel loro territorio.

La stessa persona non potrà funzionare come terzo arbitro in due vertenze successive.

Art. 5.

Quando le Parti non si accordassero per la costituzione del tribunale, le funzioni arbitrali saranno conferite ad un arbitro unico, che, salvo stipulazione in contrario, sarà nominato secondo le regole stabilite nell'articolo precedente per la nomina del terzo arbitro.

Salvo stipulazione in contrario, la questione preveduta nell'ultimo alinea dell'art. 2 sarà parimente decisa da un arbitro unico. da nominarsi secondo le stesse regole, il quale, quando ne sia il caso, continuerà a funzionare, come arbitro unico o come terzo arbitro, per la decisione del merito della contesa.

Art. 6.

La sentenza arbitrale è pronunciata a maggioranza di voti; è esclusa ogni menzione del dissenso eventuale di un arbitro.

La sentenza è sottoscritta dal presidente e dal cancelliere o dall'arbitro unico.

Art. 7.

La sentenza arbitrale decide definitivamente e senza appello la contestazione.

È tuttavia ammessa una domanda di revisione, davanti lo stesso tribunale o lo stesso arbitro che pronunciò la sentenza, e, prima che questa sia eseguita, nei casi seguenti:

1. Se è stato scoperto un fatto nuovo, tale che avrebbe potuto esercitare una influenza decisiva sulla sentenza e che al momento della chiusura del dibattimento, era ignoto al tribunale o all'arbitro ed alla parte che chiede la revisione;
2. Se sia stato giudicato sopra documenti falsi od errati;
3. Se la sentenza sia in tutto o in parte, variata da un errore di fatto risultante dagli atti o documenti della causa;
4. Se la sentenza fosse pronunciata fuori dei termini previsti dal compromesso.

Art. 8.

Qualunque controversia potesse sorgere fra le parti circa l'interpretazione o l'esecuzione della sentenza, sarà sottoposta al giudizio dello stesso tribunale o dello stesso arbitro che la pronunziò.

Art. 9.

Il presente trattato sarà ratificato, e le ratifiche saranno scambiate a Roma al più presto possibile.

Avrà la durata di dieci anni a datare dallo scambio delle ratifiche. Se non sarà denunciato sei mesi prima della scadenza, lo si intenderà rinnovato per un nuovo periodo di dieci anni, e cosi di seguito.

In fede di che, i plenipotenziari hanno sottoscritto il presente trattato, fatto in doppio originale, in italiano e spagnuolo, e lo hanno munito dei loro sigilli in La Paz, addì diciassette maggio mille novecento undici.

(L. S.) *Ruffillo Agnoli.*
(L. S.) *Claudio Pinilla.*

Tratado General de Arbitraje entre el Reino de Italia y la República de Bolivia.

Su Majestad el Rey de Italia y Su Excelencia el Presidente de la República de Bolivia animados del deseo de estrechar los vinculos de amistad que existen entre los dos Países, inspirándose en los principios de la Convención para el arreglo pacifico de los conflictos internacionales, firmada en la Haya al 29 de julio de 1899, y deseando consagrar, conforme al espíritu del artículo 19 de dicha Convención, por un acuerdo general, el principio del arbitraje obligatorio en sus relaciones recíprocas, han resuelto celebrar una Convención con este objeto, y han nombrado sus Plenipotenciarios, á saber:

Su Majestad el Rey de Italia:

al Caballero Oficial Ruffillo Agnoli, su Enviado Extraordinario y Ministro Plenipotenciario cerca de la República de Bolivia;

Su Excelencia el Presidente de la República de Bolivia:

á Su Excelencia el doctor Claudio Pinilla, su Ministro de Estado de Relaciones Exteriores, quienes, después de haberse comunicado sus plenos poderes y de haberlos encontrado en buona y debida forma, han convenido en lo siguiente:

Art. 1.

Las Altas Partes contratantes se comprometen á someter al arbitraje todas las controversias que puedan surgir entre Ellas y que no hubieren podido ser resueltas por la via diplomática.

Sin embargo, cada una de Ellas puede no someter al arbitraje las controversias que, según su juicio, afecten la independencia ó el honor nacional.

En las cuestiones que fueren de la competencia de la Autoridad judicial, según la ley territorial, las Partes contratantes tienen el derecho de no someter el litigio al juicio arbitral, sinó después que los tribunales locales hayan fallado definitivamente.

Art. 2.

Serán en todo caso sometidas al arbitraje, sin la reserva indicada en el páráfo 2 del artículo 1, las controversias relativas á las cuestiones siguientes:

1. Reclamaciones pecuniarias procedentes de daños y perjuicios sufridos por uno de los Estados contratantes ó por sus nacionales, por causa de actos ilícitos ó por omisiones del otro Estado contratante, de sus autoridades públicas y de sus funcionarios;

2. Interpretación y aplicación de las estipulaciones que se refieran á materias de órden exclusivamente juridico, administrativo, económico, de comercio y de navigación;

3. Denegación de justicia.

La cuestión de saber si una controversia constituye ó no una diferencia expresamente prevista en los números 1, 2 y 3, será sometida también al arbitraje.

Art. 3.

En cada caso particular, las Altas Partes contratantes firmarán un compromiso especial que determine el objeto del litigio, y, si hubiere lugar, el asiento del tribunal, el idioma de que haya de hacerse uso y los idiomas cuyo empleo quede autorizado ante él, el monto de la suma que cada Parte tendrá que depositar de antemano par las costas, la forma y los plazos que deberán observarse para la constitución del tribunal y el canje de memorias y documentos, y, en general, todas las condiciones que fueren convenidas entre Ellas.

A falta de compromiso, los árbitros, nombrados según las reglas establecidas en los artículos 4 y 5 del presente Tratado, juzgarán sobre la base de las pretensiones que les sean sometidas.

Además y a falta de acuerdo especial, sarán applicadas las disposiciones establecidas por la Convención para el arreglo pacífico de los conflictos internacionales firmada en la Haya el 20 de julio de 1899, salvo las adiciones y modificaciones contenidas en los artículos siguientes.

Art. 4.

Salvo estipulación en contrario, el tribunal se compondrá de tres miembros. Cada Parte nombrará un arbitro, y ambas se entenderán para la elección del tercer árbitro. Si no se llegare á un acuerdo acerca de este punto, las Partes se dirigirán á una tercera Potencia para que Ella haga esta designación, y, á falta de acuerdo aún en este punto, se dirigirá una petición con este fin á Su Majestad la Reina de los Países Bajos ó á sus sucesores.

El tercer árbitro será elegido en la lista de los miembros de la Corte permanente de arbitraje establecida por la citada Convencion de la Haya. Ni los árbitros, ni el tercer árbitro pueden ser nacionales de alguna de las Partes, ni estar domiciliados ó residir en sus territorios.

No podrá ser árbitro tercero la misma persona en dos asuntos sucesivos.

Art. 5.

Si las Partes no se entendieren para la constitución del tribunal, las funciones de árbitro serán encomendadas á un árbitro único, el cual será nombrado, salvo estipulación contraria, conforme á las reglas establecidas en el artículo anterior para el nombramiento del tercer árbitro.

A falta de acuerdo en contrario, la cuestion prevista en el último párrafo del artículo 2, será igualmente resuelta por un árbitro único, nombrado según las mismas reglas, y el cual llegado el caso, continuará como árbitro único o como árbitro tercero, para juzgar el litigio en cuanto al fondo.

Art. 6.

La sentencia arbitral será dictada por mayoría de votos, sin que deba mencionarse el disentimiento eventual de un árbitro.

La sentencia será firmada por el Presidente y el actuario, ó por el árbitro único.

Art. 7.

La sentencia arbitral resuelve definitivamente y sin apelación la controversia.

Sin embargo, el tribunal ó el árbitro que haya pronunciado la sentencia podrá, antes de que sea ejecutada, admitir la demanda para su revision, en los siguientes casos:

1. Si se ha descubierto un hecho nuevo, que hubiera podido ejercer una influencia decisiva en la sentencia, é ignorado, al terminar los debates, por el tribunal ó por el árbitro ó por la parte que ha solicitado la revisión;

2. Si el juicio se ha basado en documentos falsos ó erróneos;

3. Si la sentencia estuviere viciada, total ó parcialmente por un error de hecho que aparezca en las actuaciones ó documentos de la causa;

4. Si el laudo hubiese sido pronunciado fuera de los términos expresos del compromiso.

Art. 8.

Toda controversia que pueda surgir entre las Partes respecto á la interpretación ó á la ejecución de la sentencia, será sometida al juicio del tribunal ó del árbitro que la haya pronunciado.

Art. 9.

El presente Tratado será ratificado, y las ratificaciones serán canjeadas en Roma á la mayor brevedad posible.

Permanecerá en vigor diez años, contados desde la fecha del canje de las ratificaciones. Si no fuere denunciado seis meses antes de su vencimiento, se entenderá renovado por un nuevo periodo de diez años, y así sucesivamente.

En fé de lo cual, los Plenipotenciarios han firmado y sellado el presente Tratado, en doble original, en italiano y castellano, y le han puesto sus sellos, en La Paz el dia diez y siete de mayo de mil noveciento once.

(L. S.) *Ruffillo Agnoli.*
(L. S.) *Claudio Pinilla.*

55.

SUISSE, FRANCE.

Echange de notes afin de renouveler la Convention d'arbitrage conclue le 14 décembre 1904;*) du 19 juin 1912.

Recueil des lois fédérales 1912. No. 16.

La légation de Suisse à Paris au ministère des affaires étrangères de la République française.

Paris, le 19 juin 1912.

Monsieur le Président,

J'ai eu l'honneur de faire connaître à Votre Excellence que mon Gouvernement était disposé à renouveler, pour une période de cinq ans à partir du 14 juillet prochain, la Convention d'arbitrage conclue à Paris entre la Suisse et la France le 14 décembre 1904.

Votre Excellence a bien voulu me faire savoir que le Gouvernement de la République est également prêt à accepter, dans ces conditions, le renouvellement de la Convention du 14 décembre 1904.

Si cette manière de procéder convient à Votre Excellence, il sera entendu que la présente note et la réponse que votre Excellence me fera parvenir serviront à constater l'entente intervenue entre nos deux Pays.

Agréez, Monsieur le Président du Conseil, les assurances de ma très haute considération.

Le Ministre de Suisse,
(sig.) *Lardy.*

Son Excellence Monsieur Poincaré,
Président du Conseil,
Ministre des Affaires Etrangères, etc., etc, etc.,
à Paris.

Réponse du ministère des affaires étrangères de la République française à la légation de Suisse à Paris.

Paris, le 19 juin 1912.

Monsieur le Ministre,

J'ai l'honneur de vous accuser réception de votre note en date de ce jour, par laquelle vous avez bien voulu me faire savoir que le Gouvernement fédéral était prêt, comme le Gouvernement de la République, à renouveler, pour une période de cinq ans, à partir du 14 juillet prochain, la Convention

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*) V. N. R. G. 2. s. XXXIV, p. 326. — La Convention du 14 décembre 1904 avait été prorogée, le 14 juillet 1910, pour deux ans; v. N. R. G. 3. s. IV, p. 87.

d'arbitrage conclue entre nos deux Gouvernements le 14 décembre 1904, et dont les Ratifications ont été échangées le 13 juillet 1905.

Il reste entendu que le présent échange de notes entre vous et moi sera considéré comme constatant l'entente intervenue entre nos deux Gouvernements à ce sujet.

Agréez les assurances de la haute considération avec laquelle j'ai l'honneur d'être, Monsieur le Ministre, votre très humble et très obéissant serviteur.

(sig.) *Poincaré.*

A Monsieur Lardy,
Ministre de Suisse, à Paris.

56.

ITALIE, COLOMBIE.

Compromis d'arbitrage concernant l'affaire Cerruti; signé à Bogotá, le 28 octobre 1909, suivi d'un Echange de notes des 10 et 13 janvier 1911.*)

Publication officielle.

Convenzione.

Il cavaliere Ruffillo Agnoli, ministro residente di Sua Maestà il Re d'Italia, e Sua Eccellenza il dottor don Carlo Calderón, ministro delle relazioni estere della repubblica di Colombia, col proposito di provvedere a ciò che convenga allos copo della liquidazione e restituzione al governo di Colombia, in quanto debba verificarsi, del deposito di ventimila lire sterline dallo stesso consegnato nel Banco Hambro di Londra il 18 agosto 1898, in garanzia del compimento del lodo Cleveland del 2 marzo 1897,**) e degli interessi da esso deposito prodotti, e con lo scopo di porre termine alle divergenze sorte circa tre punti riferentisi all'ese-

Convención.

Su Excelencia el Doctor Don Carlos Calderón, Ministro de Relaciones Exteriores de la República de Colombia, y el Caballero Ruffillo Agnoli, Ministro Residente de Su Majestad el Rey de Italia, con el propósito de proveer lo conveniente al fin de la liquidación y restitución, en cuanto haya lugar, al Gobierno de Colombia, del depósito de veinte mil Libras Esterlinas que éste consignó en el Banco Hambro de Londres el diez y ocho de Agosto de mil ochocientos noventa y ocho, como garantia del cumplimiento del Laudo Cleveland de dos de Marzo de mil ochocientos noventa y siete,**) y de los intereses

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*) V. la Sentence arbitrale rendue le 6 juillet 1911, ci-dessous No. 57.
**) V. Trattati e Convenzioni fra il Regno d'Italia e gli altri Stati XV, p. 9.

cuzione del detto lodo, circa i quali si deve venire ad un componimento, affinchè il lodo medesimo possa dirsi adempiuto interamente e definitivamente dal governo di Colombia, i quali tre punti sono:

I. Quale è l'ammontare della somma che il governo di Colombia è stato obbligato e deve pagare per ragione del credito del defunto ingegnere Gaspare Mazza contro la ditta „E. Cerruti e Compagnia";

II. Quali dei ritardi occorsi nel pagamento al signor Ernesto Cerruti dell'indennizzo che gli accordò il lodo Cleveland, parzialmente ammessi dal governo di Colombia, hanno prodotto interessi a carico della Repubblica, e qual'è l'ammontare di tali interessi;

III. Quanto si deve dal governo di Colombia allo stesso signor Cerruti in conformità ed in esecuzione dell'ultima frase dell'articolo V del lodo suddetto, che nel testo inglese è redatta in questi termini: „such guarantee and reimbursement shall include all necessary expenses for properly contesting such partnership debts";

debitamente autorizzati dai loro rispettivi governi convengono:

Art. I. I governi del regno d'Italia e della repubblica di Colombia pattuiscono di costituire una commissione mista di arbitrato, che funzionerà a Roma, con le attribuzioni e nella forma stabilita dagli articoli seguenti:

Art. II. La commissione mista si comporrà di un arbitro nominato dal

que éste depósito ha producido, y á fin de poner término á las diferencias surgidas respecto de tres puntos relacionados con la ejecución de dicho Laudo, acerca de los cuales hay que llegar á un arreglo, á fin de que se pueda considerar el Laudo citado como cumplido integra y definitivamente por el Gobierno de Colombia, los cuales tres puntos son:

Primero. Cuál es el monto de la suma que el Gobierno de Colombia ha estado obligado y debe pagar por razón del crédito del finado ingeniero Gaspare Mazza á cargo de la sociedad „E. Cerruti y Compañía";

Segundo. Cuáles de los retardos ocurridos en el pago al Señor Ernesto Cerruti de la indemnización que le acordó el Laudo Cleveland, parcialmente reconocidos por el Gobierno de Colombia, han causado intereses á cargo de la República, y cuál es el monto de esos intereses.

Tercero. Cuanto se debe por el Gobierno de Colombia al dicho señor Cerruti de conformidas y en éjecución de la última frase del Artículo quinto del Laudo susodicho, que en el texto inglés está redactado en estos términos: „such guarantee and reimbursement shall include all necessary expenses for properly contesting such partnership debts";

debidamente autorizados por sus respectivos Gobiernos, convienen:

Artículo primero. Los Gobiernos de la República de Colombia y del Reino de Italia acuerdan constituir una Comisión Mixta de arbitraje, que funcionará en Roma, con las atribuciones y en la forma que determinan los Artículos siguientes:

Artículo segundo. La Comisión Mixta se compondrá de un Arbitro

governo di Colombia, di un altro arbitro nominato dal governo d'Italia e di un soprarbitro.

Art. III. I due arbitri, al momento di entrare nell'esercizio delle loro funzioni, nomineranno il soprarbitro, ed in caso di dissenso tra loro, la nomina del soprarbitro sarà deferita a Sua Eccellenza l'ambasciatore di Sua Maestà il Re di Spagna presso la real corte, al quale il regio ministero degli affari esteri italiano e la legazione di Colombia presso Sua Maestà il Re d'Italia rivolgeranno analoga domanda.

Art. IV. Se Sua Eccellenza l'ambasciatore di Spagna non potesse o non volesse accettare il suddetto incarico, la scelta della persona chiamata a nominare il soprarbitro sarà fatta d'accordo fra il regio ministero degli affari esteri d'Italia e la legazione di Colombia presso il regio governo, i quali rivolgeranno entrambi analoga domanda alla persona prescelta.

Art. V. All'ambasciatore od alla persona che abbia accettato l'incarico della designazione a cui si riferiscono gli articoli precedenti sarà specialmente raccomandata la scelta di un soprarbitro che possegga le cognizioni giuridiche necessarie per giudicare sopra le materie contemplate nella presente convenzione.

Art. VI. La commissione mista, costituita in conformità degli articoli precedenti, avrà piena competenza e libertà per esaminare e decidere, d'accordo col lodo Cleveland, qualsiasi questione concernente i tre punti enumerati nel preambolo di questa convenzione, che le sia sottoposta

nombrado por el Gobierno de Colombia, de otro Arbitro nombrado por el Gobierno de Italia y de un Tercero en discordia.

Artículo tercero. Los dos Arbitros, al momento de entrar á ejercer las funciones de tales, nombrarán et Tercero en discordia y, en caso de desacuerdo, el nombramiento de Tercero en discordia será deferido á Su Excelencia el Embajador de Su Majestad el Rey de España ante la Real Corte, á quien el Real Ministerio Italiano de Negocios Extranjeros y la Legación de Colombia ante Su Majestad el Rey de Italia dirigirán la solicitud del caso.

Artículo cuarto. Si Su Excelencia el Embajador de España no pudiera ó no quisiera aceptar el susodicho encargo, la eleción de la persona llamada á nombrar el Tercero en discordia será hecha de acuerdo entre el Real Ministerio de Negocios Extranjeros de Italia y la Legación de Colombia ante el Real Gobierno, los cuales dirigirán ambos la demanda del caso á la persona escogida.

Artículo quinto. Al Embajador ó á la persona que hubiere aceptado el encargo de la designación á que se refieren los Artículos precedentes se le recomendará especialmente la elección de un Tercero en discordia que posea los conocimientos juridicos necesarios para juzgar sobre las materias á que alude la presente Convención.

Artículo sexto. La Comisión Mixta, constituida de conformidad con los artículos precedentes, tendrá plena competencia y libertad para examinar y decidir, de acuerdo con el Laudo Cleveland, cualquier cuestión concerniente á los tres puntos enumerados en el Preámbulo de esta Convención,

dall'uno o dall'altro dei due governi o dal signor Ernesto Cerruti, non solo in base ai principî di diritto ed al valore delle prove, ma operando anche come tribunale di equità, per stabilire le norme della sua procedura in tuttociò che non sia già stipulato in questa convenzione, e per fissare il termine dentro il quale entrambi i governi ed il signor Cerruti, in difesa dei loro interessi, potranno presentarle memoriali, documenti e prove in genere per sostenere i diritti da ciascuno di essi propugnati.

I memoriali, documenti e prove summenzionati potranno essere redatti in italiano, spagnuolo o francese, ed in qualsiasi altra lingua che la commissione mista creda opportuno di ammettere.

La stessa commissione determinerà quale o quali idiomi potranno usarsi nelle discussioni orali, ed avrà facoltà di aggregarsi un segretario ed un traduttore, nonchè di chiedere il parere di persone competenti in materia di tariffa e diritto giudiziario italiano.

Art. VII. La commissione mista dovrà riunirsi ed iniziare i suoi lavori dentro un lasso di sei mesi a decorrere da oggi. In caso di assoluta necessità questo termine potrà prorogarsi di altri tre mesi; ma la proroga dovrà essere oggetto di accordo speciale da celebrarsi tra il regio ministero italiano degli affari esteri e la legazione della repubblica di Colombia presso Sua Maestà il Re d'Italia.

Art. VIII. Le riunioni della commissione mista saranno presiedute dal soprarbitro; il voto e l'opinione di quest'ultimo saranno decisivi in ogni

que le sea sometida por el uno ó el otro de los dos Gobiernos ó por el señor Ernesto Cerruti, no sólo según los principios del derecho y el mérito de las pruebas, sino obrando también como Tribunal de equidad; para establecer las reglas de su procedimiento en todo lo que no esté estipulado en esta Convención, y para fijar el término dentro del cual ambos Gobiernos y el señor Ernesto Cerruti, en defensa de sus intereses, podrán presentarle memoriales, documentos y pruebas en general para sostener los derechos que cada uno de ellos defiende.

Los memoriales, documentos y pruebas mencionados podrán ser redactados en italiano, español ó francés, ó en cualquier otro idioma que la Comisión Mixta crea oportuno admitir.

Lo misma Comisión determinará cuál ó cuáles idiomas podrán emplearse en las discusiones orales, y tendrá facultad de agregarse un Secretario y un Traductor, como también de solicitar el parecer de personas competentes en materia de tarifa y derecho judicial italiano.

Artículo séptimo. La Comisión Mixta deberá reunirse e iniciar sus trabajos dentro de un plazo de seis meses contados desde esta fecha. En caso de absoluta necesidad este término podrá prorrogarse por tres meses más; pero la prórroga deberá ser objeto de un acuerdo especial que habrá de celebrarse entre el Real Ministerio Italiano de Negocios Extranjeros y la Legación de la República de Colombia cerca de Su Majestad el Rey de Italia.

Artículo octavo. Las reuniones de la Comisión Mixta serán presididas por el Tercero en discordia; el voto y la opinión de este último serán

caso di disaccordo fra gli altri due membri della commissione.

Art. IX. Il governo d'Italia presenterà al governo di Colombia, per condotto della legazione della repubblica presso la real Corte, od alla commissione mista, se questa lo domandasse, un conto dettagliato dell'amministrazione del deposito delle ventimila lire sterline che furono consegnate dal governo di Colombia nel banco Hambro di Londra.

Lo stesso farà la regia legazione a Bogotà per ciò che si riferisce al deposito relativo al credito Mazza, il quale deposito in origine ascendeva a pesos correnti colombiani ventiduemila novecento sette e centavos ventidue e mezzo.

Dal valore di questi depositi, compresi gli interessi corrisposti nel frattempo dai Banchi che li amministrarono, depositi costituiti a libera disposizione del regio governo d'Italia, si preleverà l'ammontare della somma che fissasse la commissione mista conformemente all'articolo seguente, e si restituirà quanto eventualmente rimanesse al governo di Colombia, per condotto della legazione della repubblica presso la real corte, nel termine di trenta giorni decorrenti da quello in cui la sentenza arbitrale sia simultaneamente notificata al regio governo ed alla legazione suddetta.

La sentenza sarà notificata nei cinque giorni successivi a quello in cui sia stata pronunciata.

La restituzione che dovesse verificarsi del deposito esistente nella regia legazione a Bogotà si farà dalla stessa direttamente al governo di Colombia.

Art. X. La commissione mista, nel suo lodo arbitrale, fisserà in franchi

decisivos en cualquier caso de desacuerdo entre los otros dos Miembros de la Comisión.

Artículo noveno. El Gobierno de Italia presentará al Gobierno de Colombia, por conducto de la Legación de la República ante la Real Corte, ó á la Comisión Mixta, si ésta la pidiere, una cuenta detallada de la administración del depósito de las veinte mil Libras Esterlinas que fueron consignadas por el Gobierno de Colombia en el Banco Hambro de Londres.

Lo mismo hará la Real Legación en Bogotá por lo que se refiere al depósito relativo al crédito Mazza, el cual depósito en su origen ascendía, en pesos corrientes colombianos, á veintidós mil novecientos siete pesos y veintidós y medio centavos.

Del valor de estos depósitos, inclusive los intereses liquidados en el intervalo por los Bancos que los han administrado, depósitos constituídos á la libre disposición del Real Gobierno de Italia, se tomará el monto de la suma que fijare la Comisión Mixta de acuerdo con el Artículo siguiente, y lo que eventualmente sobrare se devolverá al Gobierno de Colombia, por conducto de la Legación de la República ante la Real Corte, dentro del término de treinta dias contados desde el dia en que la sentencia arbitral sea simultáneamente notificada al Real Gobierno y á la citada Legación.

La sentencia será notificada en los cinco dias siguientes al dia en que haya sido dictada.

La devolución á que hubiere lugar del depósito existente en la Real Legación en Bogotá se hará directamente por ella al Gobierno de Colombia.

Artículo décimo. La Comisión Mixta, en su Laudo arbitral, fijará en

oro, facendo le necessarie riduzioni e conversioni della moneta, la somma il cui pagamento sia dichiarato a carico del governo di Colombia pei tre titoli enunciati nel preambolo di questa convenzione.

Per stabilire quanto sia dovuto in relazione a questi tre punti, la commissione baserà il suo giudizio sulle disposizioni del lodo Cleveland, interpretandole ed applicandole, tenendo presenti a tale scopo ed apprezzando le esposizioni ed allegati, le ragioni di addebito e di esonero, le prove e controprove che presentino i due governi ed il signor Ernesto Cerruti, e gli altri dati che la stessa commissione creda opportuno di richiedere alle parti circa i tre punti surricordati.

All'ammontare della somma che la commissione mista giudicherà esser dovuta dal governo della repubblica di Colombia si farà fronte col valore dei depositi che esistono nel banco Hambro di Londra e nella regia legazione a Bogotà conformemente all'articolo anteriore, e detta somma sarà pagata a chi spetti, secondo il lodo arbitrale, dentro trenta giorni contati da quello in cui si notifichi simultaneamente la sentenza arbitrale al regio governo ed alla legazione di Colombia presso il governo medesimo.

Art. XI. La commissione mista dovrà pronunciare il suo lodo nel termine di tre mesi dal giorno della sua prima riunione; se fosse necessario potrà prorogare di un mese, di sua propria iniziativa, il termine utile per l'emanazione della sentenza. Qualsiasi proroga ulteriore sarà subordinata ad uno speciale accordo fra i due governi.

Art. XII. Il lodo della commissione mista sarà definitivo ed inappellabile, e sarà eseguito integralmente dentro

francos oro, haciendo las reducciones y conversiones necesarias de monedas, la suma cuyo pago sea declarado á cargo del Gobierno de Colombia por los tres titulos enunciados en el Preámbulo de esta Convención.

Para establecer cuánto se deba en relación con estos tres puntos, la Comisión basará su juicio en las disposiciones del Laudo Cleveland, interpretándolas y aplicándolas, teniendo presentes al efecto y apreciando las exposiciones y alegatos, los cargos y descargos, pruebas y contrapruebas que presentaren los dos Gobiernos y el señor Ernesto Cerruti, y los demás datos que la misma Comisión crea oportuno pedir á las partes en relación con los tres puntos mencionados.

Al monto de la suma que la Comisión Mixta juzgue se deba por el Gobierno de la República de Colombia se hará frente con el valor de los depósitos que existen en el Banco Hambro de Londres y en la Real Legación en Bogotá de acuerdo con el Artículo anterior, y dicha suma se pagará á quien corresponda, al tenor del Laudo arbitral, dentro de treinta dias contados desde el dia en que se notifique simultáneamente la Sentencia arbitral al Real Gobierno y á la Legación de Colombia ante el mismo Gobierno.

Artículo undécimo. La Comisión Mixta deberá dictar su fallo dentro del término de tres meses contados desde la fecha de su primera reunión; si fuere necesario podrá prorrogar por un mes, de su propia iniciativa, el término útil para la expedición de la Sentencia. Cualquier prórroga ulterior quedará subordinada á un acuerdo especial entre los dos Gobiernos.

Artículo duodécimo. El fallo de la Comisión Mixta será definitivo e inapelable, y será ejecutado integra-

i termini che questa convenzione segnala, rimanendo inteso che una volta esperito il giudizio arbitrale, ed eseguito il lodo in ogni sua parte, le divergenze pendenti fra i due governi per causa dei reclami del signor Ernesto Cerruti restano definite irrevocabilmente ed i suddetti governi, in quanto li concerne, disinteressati a tale riguardo.

Art. XIII. Il governo d'Italia, e quello di Colombia per mezzo della sua legazione presso la real corte, regoleranno e pagheranno separatamente gli onorari del loro rispettivo arbitro, e stipuleranno insieme quelli del soprarbitro; questi ultimi onorari, come le altre spese di carattere comune che l'arbitrato causasse, si divideranno per metà, e saranno soddisfatti dai due governi nel termine stesso fissato per l'esecuzione del lodo dal precedente articolo decimo.

Art. XIV. La presente convenzione è stata redatta in italiano e spagnuolo, e le due Alte Parti contraenti riconoscono che i due testi sono identici ed hanno ugual valore.

I due governi conferiscono alla commissione mista il potere di determinare, in caso di dubbio, il significato e la portata delle clausole della presente convenzione.

In fede di che, il cavaliere Ruffillo Agnoli, ministro residente di Sua Maestà il Re d'Italia a Bogotà, e Sua Eccellenza il dottore don Carlo Calderón, ministro delle relazioni estere della repubblica di Colombia, firmano la presente convenzione, in due esemplari, redatti in italiano e

mente dentro de los términos que esta Convención señala, siendo entendido que una vez surtido el juicio arbitral, y ejecutado el fallo en todas sus partes, las divergencias pendientes entre los dos Gobiernos por causa de las reclamaciones del señor Ernesto Cerruti quedan irrevocablemente concluídas, y dichos Gobiernos, en cuanto les concierne, desinteresados á ese respecto.

Artículo décimo tercero. El Gobierno de Colombia, por medio de su Legación ante la Real Corte, y el Gobierno de Italia arreglarán y pagarán separadamente los honorarios de su respectivo Arbitro, y estipularán conjuntamente los del Tercero en discordia; estos últimos honorarias, así como los otros gastos de carácter común que ocasione el Arbitraje se dividirán por mitad, y serán pagados por ambos Gobiernos dentro del mismo término fijado para la ejecución del Laudo por el precedente Artículo décimo.

Artículo décimocuarto. La presente Convención ha sido redactada en español y en italiano, y las dos Altas Partes contratantes reconocen que los dos textos son idénticos y tienen igual valor.

Ambos Gobiernos confieren á la Comision Mixta la facultad de determinar, en caso de duda, la significación y el alcance de las cláusulas de la presente Convención.

En fe de lo cual, Su Excelencia el Doctor Don Carlos Calderón, Ministro de Relaciones Exteriores de la República de Colombia, y el Caballero Ruffillo Agnoli, Ministro Residente de Su Majestad el Rey de Italia en Bogotá, firman la presente Convención, en dos ejemplares, redactados en

spagnuolo, e vi appongono i loro rispettivi sigilli, in Bogotà, addì ventotto ottobre mille novecento nove.

español y en italiano, y la sellan con sus respectivos sellos, en Bogotá, á veintiocho de octubre de mil novecientos nueve.

Ruffillo Agnoli.
Carlos Calderón.

Il Dr Gustavo Michelsen, Ministro Plenipotenziario di Colombia in Missione speziale, al Ministro degli affari esteri.

Roma, Enero 10 de 1911.

Señor Ministro,

Como lo sabe Vuestra Excelencia tuvo lugar en Bogotá, durante los meses de Julio y Agosto del año passado, un cambio de notas entre el Ministerio de Relaciones Exteriores de Colombia y la Real Legación de Italia en Bogotá, relativo á la interpretación exacta que debe darse á algunas estipulaciones de las contenidas en la Convención negociada en aquella ciudad con fecha 28 de octubre de 1909, referente á la terminación de la cuestión Cerruti.

Las dudas concernientes à la interpretación del Punto Primero del Préambulo y del Artículo XII de aquella Convención han quedado satisfactoriamente resueltas con las notas de 28 de julio del Ministerio de Relaciones Exteriores de Colombia, y de 20 de Agosto de Su Excelencia el Conde Mazza, Enviado Extraordinario y Ministro Plenipotenciario del Real Gobierno en Bogotá.

Considera mi Gobierno que sería conveniente una declaración al efecto de que para el caso de que, por justa causa, uno de los arbitros no pudiera continuar en el ejercicio de su cargo, el nombramiento del árbitro que deba entrar á reemplazarlo se hará en la misma forma prevista en la Convención internacional ya citada, para el nombramiento del árbitro que deba ser reemplazado.

Habiendo expirado ya los terminos fijados en aquella Convención, y deseosos ambos Gobiernos de que ésta sea considerada siempre en vigor, hay que declarar que dichos terminos se contaran ahora, á partir de la fecha del canje de las Ratificaciones.

Espero que Vuestra Excelencia no tendrá inconveniente en aceptar estas aclaraciones y que, en este caso, me hará el honor de confirmarmelo en una nota, con lo cual quedarían aceptadas por parte de ambos Gobiernos y podríamos entonces proceder al canje de las Ratificaciones en la fecha que Vuestra Excelencia tenga á bien señalarme.

Aprovecho etc.

G. Michelsen.

Il Ministro degli Affari esteri al Dottor Gustavo Michelsen, Ministro Plenipotenziario di Colombia in Missione Speziale.

Nr. 1 Roma, 13 gennaio 1911.

Signor ministro,

In relazione alla nota di Vostra Eccellenza in data del 10 gennaio corrente, relativa alla convenzione d'arbitrato per l'affare Cerruti, in data del 28 ottobre 1909, mi pregio, aderendo alla di Lei proposta, di confermarle quanto segue:

1⁰ nel caso in cui, per un giusto motivo, uno degli arbitri non potesse continuare nell'esercizio delle sue funzioni, la nomina di chi dovrà sostituirlo si farà nella medesima forma, preveduta dal predetto accordo internazionale per la nomina dell'arbitro, che dovrebbe, eventualmente, sostituirsi;

2⁰ poichè sono già spirati i termini fissati nella convenzione arbitrale e poichè entrambi i governi desiderano che essa sia considerata sempre in vigore, resta inteso che i termini, ivi preveduti, cominceranno ora a decorrere della data dello scambio delle ratifiche della convenzione stessa.

Tale scambio, secondo fu, verbalmente, stabilito, avrà luogo alla Consulta il giorno 14 gennaio 1911 alle ore 17.

Mi valgo ecc.

A. di San Giuliano.

57.

ITALIE, COLOMBIE.

Sentence de la Commission arbitrale instituée en vertu du Compromis d'arbitrage sur l'affaire Cerruti du 28 octobre 1909;*) rendue à Rome, le 6 juillet 1911.

Publication officielle.

Sentence.

Par un Compromis signé le 28 octobre 1909, le Gouvernement de la République de Colombie et le Gouvernement de Sa Majesté le Roi d'Italie se sont mis d'accord à l'effet de soumettre à l'arbitrage les trois questions suivantes:

I. Quel est le montant de la somme que le Gouvernement de la Colombie a été obligé de payer et qu'il doit payer en raison du crédit de feu l'ingénieur Gaspare Mazza contre la Maison E. Cerruti et Cie?

*) V. ci-dessus, No. 56.

II. Parmi les retards qui se sont produits dans le paiement, au sieur Ernesto Cerruti, de l'indemnité à lui accordée par la sentence d'arbitrage Cleveland,*) retards que le Gouvernement de la Colombie admet en partie, quels sont ceux qui ont produit des intérêts à la charge de la République et quel est le montant de ces intérêts?

III. Combien est-il dû au même sieur Cerruti en conformité et en exécution de la dernière phrase de l'art. V de la sentence d'arbitrage susdite et qui, dans le texte anglais, est rédigée en ces termes: „Such guarantee and reimbursement shall include all necessary expenses for properly contesting such partnership debts?"

En exécution de ce Compromis, les deux Gouvernements ont nommé respectivement comme Arbitres: M. le Docteur Santiago Aldunate, Envoyé extraordinaire et Ministre plénipotentiaire du Chili près de Sa Majesté le Roi d'Italie et l'Hon. Prof. Pasquale Grippo, Vice-président de la Chambre des députés italienne, et, en vertu du Compromis, les Arbitres ainsi désignés ont nommé comme Surarbitre M. le Docteur Francis Hagerup, Envoyé extraordinaire et Ministre plénipotentiaire de Sa Majesté le Roi de Norvège.

La Commission arbitrale s'est réunie à Rome le 24 avril 1911. Conformément au règlement de procédure élaboré par elle, des Mémoires, Contre-Mémoires et Conclusions ont été dûment soumis aux Arbitres et communiqués aux Parties, lesquelles ont plaidé oralement devant la Commission le 28 juin 1911.

Sur quoi, la Commission arbitrale, après en avoir mûrement délibéré, rend la Sentence suivante:

I. Quant à la première question:

Considérant que d'après ce qui ressort de la procédure et des documents produits par les Parties les faits se rattachant à cette question sont les suivants:

Dans les livres de la Maison Cerruti et Cie figurait un compte du sieur Gaspare Mazza, ingénieur italien, lequel compte, le 31 janvier 1885, accusait en faveur du sieur Mazza un solde de *pesos* colombiens 19,089. 355.

Ce solde se compose des chefs suivants:

Solde du compte courant	*pesos*	1,210. 610
Honoraires etc. pour des travaux d'ingénieur, exécutés pour la Maison	„	5,038. 200
Intérêts	„	1,866. 055
Montant en or donné à E. Cerruti	„	8,635. 290
Agio de cette dernière somme, convertie en monnaie colombienne courante	„	2,339. 200
Total	*pesos*	19,089. 355

*) Du 2 mars 1897. V. ci-dessus p. 378, note **.

Il ressort des dits livres que les intérêts sont liquidés semestriellement à un taux de 7 $^0/_0$ par an et à raison composée.

Sur l'origine du crédit, résultant du versement de la somme de *pesos* 8,635. 290 en or effectué entre les mains du sieur E. Cerruti, celui-ci, qui était associé et gérant de la Maison Cerruti et Cie, s'exprime dans une lettre au sieur G. Mazza en date du 29 juillet 1893 dans les termes suivants:

(Voir document n. 5 produit avec le 2ème Mémoire de l'agent du Gouvernement colombien):

„Le somme mi furono date senza condizioni. Dieci mila lire mi furono consegnate da te a Parigi prima di partire per l'America. Venti mila franchi furono consegnati a mio cognato Panicali; il resto della somma fu consegnato in due volte al signor M. Heurtematte di Parigi, e così io evitavo l'invio di somme in Europa, mentre tu avevi il tuo denaro in qualsiasi momento l'avessi chiesto.

„Io ho creduto di mettere questa somma nella Casa, però tu mi hai sempre detto che non riconoscevi che me e nessun altro della Ditta, per cui io sono il responsabile.

„Io ho pure creduto di farti passare sui libri un interesse del 7 $^0/_0$ annuo senza che da te mi fosse chiesto e fosse dopo discusso.

„Naturalmente per passare il tuo deposito ai libri dovetti convertirlo in moneta colombiana, le prime dieci mila lire al 10 $^0/_0$ di aggio e le altre al 20 $^0/_0$. Però io sono impegnato a restituirti la somma coll'aggio nelle proporzioni sopra indicate e far la restituzione in franchi come la ricevetti".

Il est en outre produit une quittance pour la dite créance signée au nom de la Maison Cerruti et Cie par son associé M. Quilici le 28 octobre 1885 et qui porte ce qui suit (Document n. 3 produit avec le premier Mémoire de l'Agent du Gouvernement italien et Document n. 8 produit avec le premier Mémoire de l'Agent du Gouvernement colombien): „A nome della Casa Ernesto Cerruti e Compagnia di Calì dichiariamo che il signor ingegnere Gaspare Mazza è, come risulta dai libri e dal bilancio della Casa, dal 1^0 gennaio dell'anno corrente, creditore di detta Casa della somma di quattordici mila e ottantanove scudi e trecento cinquanta cinque millesimi (§ 14,089. 355), somma che il detto signor ingegnere lasciò nella nostra Casa in qualità di deposito colla sola condizione di poterla ritirare a sua volontà, e inoltre di cinquemila scudi (§ 5000. 00) per lavori eseguiti in varie mine per conto della nostra Casa, ciò che forma un totale di diciannove mila ottantanove scudi e trecento cinquanta cinque millesimi (§ 19,089. 355). Questa somma, allo scoppiare della rivoluzione, non potemmo consegnarla al citato signor Mazza, perchè il Governo s'impadronì di tutti i nostri beni. La nostra Casa decise allora di pagare l'interesse mensile dell' 1 $^0/_0$, che è l'interesse corrente nel commercio di questo paese, finchè la casa possa ricuperare i suoi beni, senza pregiudizio dei maggiori danni che potesse causare il ritardo".

Le Gouvernement colombien, auquel l'art. V de la sentence arbitrale Cleveland du 2 mars 1897 imposa l'obligation de protéger le sieur E. Cerruti contre toute responsabilité émanant des dettes de la Maison E. Cerruti et C[ie], se déclara, le 8 février 1899, disposé à payer la créance du sieur G. Mazza en monnaie colombienne (avec une majoration, d'abord fixée à 20 p. ct., portée plus tard à 40 p. ct.). Mais le sieur G. Mazza qui exigeait d'être payé en or n'accepta pas cette offre. Le Gouvernement colombien envoya, au mois de septembre 1899, comme paiement de la dite créance, une somme de *pesos* 22,907. $22^1/_2$ en monnaie courante à M. Welby, Ministre de la Grande-Bretagne à Bogotà et qui était à cette époque le représentant de l'Italie auprès du Gouvernement colombien; et M. Welby ayant accepté cette somme sous réserve d'instructions ultérieures du Gouvernement italien, la déposa à la Banque de Bogotà. (Voir doc. 4 produit avec le premier Mémoire de l'Agent du Gouvernement colombien, pag. 39). Déjà en avril 1897 monsieur G. Mazza avait fait des démarches auprès des autorités judiciaires d'Italie pour obtenir une saisie-arrêt sur la somme de 50,000 livres sterlings payée par le Gouvernement colombien au Gouvernement italien, en vertu de la sentence d'arbitrage Cleveland, comme indemnité au sieur E. Cerruti pour la confiscation de ses biens pendant la révolution de 1885. La saisie-arrêt, accordée par le Président du Tribunal de Rome, fut maintenue par la Cour de Cassation qui, par un arrêt en date des 9-27 juillet 1901, renvoya l'affaire par devant la Cour d'Appel de Pérouse pour être jugée quant au fond. Par une sentence de cette dernière Cour en date des 24 mars—1 avril 1902 le sieur E. Cerruti fut condamné, tant comme associé de la Maison Cerruti et C[ie] qu'en son propre nom, à payer au Général Mazza comme héritier de feu l'ingénieur G. Mazza:

I. La somme de lires 59,539 en or avec les intérêts, à partir du 1[er] janvier 1885, à un taux de 7 pour cent, échus et en cours jusqu'au paiement final;

II. La somme de lires 21,739. 10 en monnaie courante avec les intérêts au taux légal de 5 pour cent à partir du 12 avril 1897 (date de l'assignation);

III. Les frais judiciaire encourus dans l'affaire par M. Mazza (outre les frais du Ministère des Affaires Etrangères italien, partie du litige en sa qualité de dépositaire de la somme séquestrée par M. Mazza).

En vertu de cette sentence, le sieur E. Cerruti paya, le 3 avril 1903, au Général Mazza la somme de lires italiennes 181,359. 46.

Considérant que pour ce qui concerne la somme de *pesos* 5,038. 200, due à feu l'ingénieur G. Mazza, comme honoraires, il n'est pas contesté que cette somme était une dette incombant à la Maison E. Cerruti et C[ie];

Considérant, pour ce qui concerne le reste du dit crédit, que la responsabilité du Gouvernement colombien à ce sujet dépend de la question de savoir, si, oui ou non, la somme inscrite dans les livres de la Maison Cerruti et C[ie] pour le compte de M. Mazza a été versée dans la caisse de

la dite Maison; et considérant que la Commission, après avoir soigneusement apprécié toutes les circonstances invoquées par l'Agent du Gouvernement colombien et qui sont de nature à provoquer des doutes sur la régularité des écritures de ces livres, en vue de l'ensemble des faits présentés à la Commission et surtout en vue de la reconnaissance de la dette de la part du Gouvernement colombien, contenue dans le paiement offert par lui au mois de septembre 1899, doit reconnaître que ce versement a eu lieu;

Considérant que le versement fait à la Maison E. Cerruti et Cie par le sieur Cerruti au nom du sieur Mazza dans l'intention d'établir pour celui-ci une créance envers cette Maison à côté de l'obligation assumée par le sieur Cerruti personnellement, — soit qu'on y applique les règles des *contractus in favorem tertii,* soit qu'on envisage le versement comme une *negotiorum gestio* — était obligatoire pour la dite Maison, même si le versement avait eu lieu sans l'autorisation du sieur Mazza ou à son insu, à moins qu'il n'ait protesté contre cet acte, ce qui n'a pas eu lieu, le sieur Mazza s'étant au contraire prévalu de sa créance envers la Maison E. Cerruti et Cie en en demandant le paiement au Gouvernement colombien;

Considérant que le sieur Cerruti, en payant la créance du sieur Mazza, acquiert un droit de recours envers le Gouvernement colombien comme successeur, d'après la sentence d'arbitrage Cleveland, de la Maison E. Cerruti et Cie, à laquelle avait finalement profité la somme versée par le sieur Mazza;

Considérant que dans les livres de la Maison E. Cerruti et Cie la créance est inscrite en monnaie colombienne mais que dans l'esprit de la sentence d'arbitrage Cleveland on doit, dans l'appréciation des rapports de la Maison E. Cerruti et Cie et par conséquent dans l'appréciation de la valeur de la monnaie colombienne, se remettre autant que possible dans l'état existant avant la confiscation des biens du sieur Cerruti survenue aux mois de janvier et de février 1885;

Considérant que pour cette raison l'offre de paiement faite par le Gouvernement colombien en 1899, et qui avait pour base une valeur de la monnaie colombienne très dépréciée, ne fut pas suffisante;

Considérant que pour ce cas les parties ont accepté le calcul de la valeur de la créance fait par la Cour d'appel de Pérouse, et que par conséquent il n'est pas nécessaire de chercher la vraie valeur de la monnaie colombienne en 1885;

Considérant, pour ce qui concerne les intérêts, que la somme payée par le sieur Cerruti en exécution de la sentence de la Cour d'appel de Pérouse, s'élevant — abstraction faite des frais judiciaires dont il sera parlé ci-dessous — à lires italiennes 167,216. 56, représente une diminution de l'indemnité à lui accordée par la sentence d'arbitrage Cleveland, et que, d'après cette sentence, il a le droit de 6 pour cent par an comme intérêts des sommes non versées par lui à partir de la date du paiement, le 3 avril 1903, mais qu'il n'y a pas lieu d'après la dite sentence de réclamer des intérêts composés;

Considérant, pour ce qui concerne les frais judiciaires, que ce point de la question se trouvera réglé par la disposition concernant la troisième question posée à la Commission arbitrale;

II. Quant à la deuxième question:

Considérant que les faits se rattachant à cette question sont les suivants: l'art. IV de la sentence d'arbitrage Cleveland adjugeait au sieur Cerruti „la somme nette de 60,000 livres sterlings, dont 10,000 ayant déjà été payées, le Gouvernement de la République de Colombie devra, en plus, payer au Gouvernement du Royaume d'Italie à l'usage du *(for the use of)* sieur Ernesto Cerruti 10,000 livres sterlings de la dite somme dans le délai de 60 jours à partir de cette date, et le reste, soit 40,000 livres sterlings, dans l'espace de 9 mois, à partir de cette date, avec les intérêts à courir de la date de la présente sentence au taux de six pour cent par an jusqu'à ce que le paiement soit effectué".

En conséquence de cette sentence, 10,000 livres sterlings furent versées au Gouvernement italien le 5 juin 1897, 40,000 livres sterlings le 2 décembre 1897, et les 1800 livres sterlings constituant les intérêts des 40,000 livres sterlings pour le temps écoulé du 2 mars au 2 décembre 1897 furent payées le 14 octobre 1900. Ces sommes ne furent cependant pas remises immédiatement et intégralement au sieur E. Cerruti. Divers créanciers de la Maison E. Cerruti et Cie et du sieur Cerruti personnellement avaient obtenu du Tribunal de Rome de mettre saisie-arrêt sur les sommes que le Gouvernement colombien avait versées au Gouvernement italien comme indemnité au sieur Cerruti. Par un arrêt de la Cour de Cassation en date des 4-28 février 1899, les chambres réunies de cette Cour suprême annullaient une de ces saisies-arrêts, exécutée dans l'intérêt de la Maison Isaac et Samuel. Dans les considérants de cet arrêt, la dite Cour fit valoir la manière de voir suivante: „La sentence d'arbitrage Cleveland constitue une mesure d'ordre international, et, en tant qu'il s'agit de l'attribution de 60,000 livres au sieur E. Cerruti à son usage, les créanciers de la Maison Cerruti et Cie ne peuvent intenter des actions de créance par devant les autorités judiciaires, étant donné la nature de la sentence d'arbitrage, qui a le caractère d'un traité international, en raison de l'accord intervenu entre le Gouvernement de Colombie et le Gouvernement d'Italie, qui recevait l'indemnité pour la transférer au sieur Cerruti, lequel transfert constituait de la part du Gouvernement l'exécution de la Convention diplomatique". Cet arrêt n'annullant que la saisie-arrêt effectuée dans l'intérêt de la Maison Isaac et Samuel, et toutes les autres saisies-arrêts effectuées dans l'intérêt d'autres créanciers persistant, le Gouvernement italien ne trouvait pas qu'il pût verser au sieur Cerruti l'indemnité qu'il avait touchée pour son compte. Alors le sieur E. Cerruti cita le Ministère des Affaires Etrangères italien par devant le Tribunal de Rome, pour obtenir l'ordre qu'on lui versât l'indemnité payée par le Gouvernement colombien. Le dit Tribunal, par son jugement des 18-25 juin 1900, rejetait cette demande, qui fut pourtant admise (sauf

quelques déductions faites pour des sommes avancées par le Ministère des Affaires Etrangères ou autrement dues par le sieur Cerruti) par un jugement rendu les 7-20 décembre 1900 par la Cour d'Appel de Rome, devant laquelle le sieur Cerruti avait porté l'affaire.

La Cour d'Appel de Rome, dans les considérants de sa sentence, avançait l'opinion, que la conséquence du susdit arrêt de la Cour de Cassation en date des 4-28 février 1899 devait nécessairement être que toutes les saisies-arrêts effectuées sur l'indemnité accordée au sieur Cerruti par la sentence d'arbitrage Cleveland étaient inadmissibles. Telle n'était pourtant pas l'opinion de la Cour de Cassation devant laquelle le sieur Mazza se pourvoyait en Cassation contre la sentence de la Cour d'Appel de Rome. Par l'arrêt en date des 9-27 juillet 1901 dont il a déjà été fait mention ci-dessus la Cour de Cassation maintenait les saisies-arrêts effectuées dans l'intérêt des dettes faites par le sieur Cerruti *personnellement* et indépendamment de sa qualité d'associé de la Maison Cerruti et Cie.

Ce ne fut que le 3 avril 1903 que put être effectué au sieur Cerruti le paiement de lires 474,005 en or constituant à ce jour le reste des 50,000 livres sterlings versées par le Gouvernement colombien.

Considérant que les réclamations des intérêts faites de part et d'autre à l'occasion des faits qui viennent d'être relatés peuvent se résumer sous les chefs suivants:

a) Intérêts au taux de 6 pour cent du premier acompte de l'indemnité accordée par la sentence d'arbitrage Cleveland pour les 60 jours entre la date de cette sentence (2 mars 1897) et la date fixée pour le versement du premier acompte de l'indemnité (1er mai 1897). L'obligation de payer ces intérêts dont le montant est de livres sterlings 98.12.7 est contestée par le Gouvernement colombien.

b) Intérêts au taux de 6 pour cent de 10,000 livres sterlings pour les 35 jours du 1er mai au 5 juin 1897, pendant lesquels le Gouvernement colombien a retardé le paiement du premier acompte de l'indemnité. L'obligation de payer ces intérêts (s'élevant à livres sterlings 57.10.8) est reconnue par ledit Gouvernement.

c) Intérêts au taux de 6 pour cent — s'élevant à une somme de livres sterlings 309.10.0 — d'une somme de livres sterlings 1800 qui devait être payée comme intérêts des 40,000 livres sterlings et qui fut versée avec un retard de 2 ans et 316 jours. L'obligation de payer ces intérêts est également reconnue par le Gouvernement colombien.

d) Intérêts composés au taux de 6 pour cent par an pour le temps pendant lequel le sieur E. Cerruti, à cause de poursuites judiciaires effectuées concernant la somme déposée entre les mains du Gouvernement italien, fut empêché de faire usage de l'indemnité à lui accordée par la sentence d'arbitrage Cleveland. L'obligation de payer ces intérêts est contestée par le Gouvernement colombien.

e) Ce Gouvernement a soulevé la question de savoir s'il n'y a pas lieu de tenir compte, en sa faveur, des intérêts de la somme de 10,000 livres sterlings versée par lui le 4 juillet 1890 comme indemnité au sieur Cerruti.

Considérant, pour ce qui concerne les intérêts sus-mentionnés sous la lettre *a)*, que les termes de l'art. IV de la sentence arbitrale Cleveland „avec les intérêts à partir de la date de cette sentence d'arbitrage au taux de six pour cent par an jusqu'à la date du paiement“ doivent, aussi bien d'après la construction du sus-dit article que d'après l'esprit de la sentence, se rapporter tant au premier qu'au second acompte de l'indemnité;

Considérant qu'il n'est pas contesté que le Gouvernement colombien doit payer les intérêts dont il est question aux lettres *b)* et *c)*;

Considérant que le sieur Cerruti avait le droit d'imputer préalablement sur les intérêts mentionnés aux lettres *a)*, *b)* et *c)* les sommes de 10,000, 40,000 et 1800 livres sterlings versées par le Gouvernement colombien, de sorte que le sieur Cerruti résulte encore créancier des capitaux de livres sterlings 156,3.3 et 309.10.0, comme il appert des deux comptes suivants:

		Capitaux	Intérêts
2 mars 1897.	Premier acompte de l'indemnité assignée au sieur Cerruti par la sentence arbitrale Cleveland	Lst. 10,000	
1er mai „	Intérêts 6 % sur la somme de Lst. 10,000 à partir du 2 mars jusqu'au 1er mai 1907 (60 jours)		Lst. 98. 12. 7
5 juin „	Intérêts 6 % sur la somme de Lst. 10,000 à partir du 1er mai jusqu'au 5 juin 1897 (35 jours)		„ 57. 10. 8
		Lst. 10,000	Lst. 156. 3. 3
5 juin „	Somme payée par le Gouvernement colombien Lst. 10,000 =	„ — 9,843. 16. 9	„ — 156. 3. 3
	Crédit du sieur Cerruti le 5 juin 1897 relativement au premier acompte . . .	Lst. 156. 3. 3	0

		Capitaux	Intérêts
2 mars 1897.	Deuxième acompte de l'indemnité assignée au sieur Cerruti par la sentence arbitrale Cleveland	Lst. 40,000	
2 décembre „	Intérêts 6 % sur la somme de Lst. 40,000 à partir du 2 mars jusqu'au 2 décembre 1897 (9 mois)		Lst. 1,800
„ „ „	Somme payée par le Gouvernement colombien Lst. 40,000 =	„ — 38,200	„ — 1,800
		Lst. 1,800	0
14 octobre 1900.	Intérêts 6 % sur le capital de Lst. 1,800 à partir du 2 décembre 1897 jusqu'au 14 octobre 1900 (2 ans et 316 jours)		Lst. 309. 10. 0
„ „ „	Somme payée par le Gouvernement colombien Lst. 1,800 =	„ — 1,490. 10. 0	„ — 309. 10. 0
	Crédit du sieur Cerruti le 14 octobre 1900 relativement au deuxième acompte.	Lst. 309. 10. 0	0

Considérant que, d'après la sentence Cleveland, le Gouvernement colombien doit payer les intérêts au taux de $6^0/_0$ par an sur les sommes non versées se rapportant à l'indemnité et que, suivant les comptes ci-dessus, les intérêts sur les capitaux de livres sterlings 156. 3. 3 et 309. 10. 0 doivent être calculés respectivement à partir des dates du 5 juin 1897 et du 14 octobre 1900 jusqu'au paiement final;

Considérant, pour ce qui concerne les intérêts mentionnés sous la lettre *d)*, que le Gouvernement colombien, en payant au Gouvernement italien la somme accordée par la sentence d'arbitrage Cleveland au sieur Cerruti, s'était conformé aux dispositions de la dite sentence et, d'après les règles générales de droit maintenues par la Cour de Cassation de Rome, devait pouvoir compter sur ce que la somme versée à l'usage du sieur Cerruti ne serait pas assignée à un usage étranger aux dispositions du dit acte international;

Considérant que le Gouvernement colombien ne peut non plus être responsable des retards occasionnés par les séquestres effectués par des créanciers *personnels* du sieur Cerruti et admis par la Cour sus-mentionnée seulement parce qu'il s'agissait de créances personnelles;

Considérant qu'il n'est pas nécessaire, pour la décision de la question soumise à cet arbitrage, d'entrer dans une appréciation des divergences d'opinion qui après la sentence d'arbitrage Cleveland se soulevaient entre les Gouvernements intéressés au sujet des obligations imposées par cette sentence, parce que, quelle que soit l'appréciation des dites divergences d'opinion, le Gouvernement colombien ne peut pas, en droit, être rendu responsable des séquestrations effectuées en violation des susdites règles de droit maintenues par la Cour de Cassation de Rome, bien que l'attitude du Gouvernement italien fût d'une correction incontestable en tant qu'il refusait le versement au sieur Cerruti de la somme séquestrée;

Considérant, toutefois, que la présente Commission arbitrale est appelée d'après le compromis à statuer aussi comme tribunal d'équité et considérant que, si le Gouvernement colombien, d'après le droit strict, n'a pas l'obligation de rembourser au sieur Cerruti les pertes subies par lui à cause des susdites mesures illégales entreprises dans l'intérêt des créances de la Maison E. Cerruti et Cie pour lesquelles le Gouvernement colombien avait assumé la responsabilité, il semble équitable que le sieur Cerruti, qui n'a aussi commis aucune faute en ce qui concerne ces mesures, n'en supporte pas seul les conséquences pécuniaires qui diminueraient sensiblement l'indemnité à lui accordée par la sentence d'arbitrage Cleveland, et que pour cette raison il paraît équitable et dans l'esprit de la dite sentence de lui accorder pour perte d'intérêts une somme globale de deux cent mille francs d'or (sans des intérêts d'intérêts);

Considérant pour ce qui concerne les intérêts mentionnés sous la lettre *e)* qu'il y a tout lieu d'affirmer que la sentence d'arbitrage Cleveland, par la fixation de l'indemnité à accorder au sieur Cerruti, a tenu compte du fait que ces 10.000 livres sterlings avaient été avancées par la Colombie et qu'il pourrait en jouir ainsi que des intérêts;

III. Quant à la troisième question:

Considérant que les termes de l'art. V de la sentence d'arbitrage Cleveland, ainsi conçus en anglais „such guarantee and reimbursement shall include all necessary expenses for properly contesting such partnership debts" doivent être interprétés de la manière suivante: le Gouvernement colombien, qui, d'après la dite sentence, devait assumer la responsabilité de toutes les dettes de la Maison E. Cerruti et Cie, doit rembourser au sieur Cerruti tous les frais encourus de bonne foi par celui-ci dans le but de voir établie d'une manière décisive l'étendue de ces obligations;

Considérant que les frais qui se rapportent au crédit Mazza — aussi bien ceux qui sont imposés au sieur Cerruti par la sentence de la Cour d'appel de Pérouse que ceux qu'il a dû payer pour sa défense dans les différents procès se rattachant à cette affaire — sont sous le rapport susindiqué d'une nature mixte, quelques-uns se rattachant à la saisie-arrêt effectuée en faveur du sieur Mazza et à l'intervention dans le procès du Gouvernement italien comme dépositaire de la somme séquestrée, d'autres se rattachant à la question de la nature de la créance — et qu'une distinction des différents groupes de frais ne peut pas être établie exactement;

Considérant que tous les autres procès et actes judiciaires, dont le sieur Cerruti réclame les frais, ont eu pour but non pas d'établir l'étendue du passif de la Maison E. Cerruti et Cie, mais de protéger la somme versée par le Gouvernement colombien contre des saisies-arrêts illégales dont la responsabilité, d'après ce qui a été dit plus haut, ne retombe pas, en droit strict, sur la Colombie;

Considérant, toutefois, que les mêmes raisons d'équité qui ont été invoquées ci-desssus ont aussi leur valeur dans la question des frais judiciaires et que pour cette raison il semble équitable de ne pas faire supporter par le sieur Cerruti tous les frais et de lui adjuger comme indemnité une somme globale de soixante quinze mille francs en or (sans intérêts) dans laquelle somme entre comme élément une part raisonnable des frais à lui imposés par la sentence de la Cour d'appel de Pérouse;

Considérant que d'après le compromis la Commission arbitrale n'a pas la compétencé de trancher les questions soulevées par le sieur Cerruti concernant ses dommages personnels et celles qui se rapportent aux frais du présent arbitrage;

Considérant que conformément au compromis les sommes à payer en vertu de la présente sentence doivent être fixées en francs en or aussi bien pour les intérêts que pour les capitaux;

Pour ces raisons la Commission arbitrale déclare:

I. Le montant de la somme que le Gouvernement colombien doit payer en raison de la créance de feu l'ingénieur G. Mazza envers la Maison E. Cerruti et Cie est de 166,589. 49 francs en or avec les intérêts, également en or, au taux de 6 pour cent par an, calculés à partir du 3 avril 1903 jusqu'au paiement final.

II. Le Gouvernement colombien doit payer comme intérêts à cause des différents termes auxquels ont été effectués les versements au sieur Cerruti de l'indemnité qui lui était due

a) francs en or 3,950. 11 avec les intérêts, également en or, au taux de 6 pour cent par an, calculés à partir du 5 juin 1897 jusqu'au paiement final;

b) francs en or 7,828. 80 avec les intérêts, également en or, au taux de 6 pour cent par an, calculés à partir du 14 octobre 1900 jusqu'au paiement final;

c) une somme globale de 200,000 francs en or.

III. Le Gouvernement colombien doit rembourser au sieur Cerruti une somme de francs en or 75,000 pour les frais judiciaires payés par lui.

Rome, le 6 juillet 1911.

F. Hagerup. *Santiago Aldunate B.* *P. Grippo.*

58.

ALLEMAGNE, GRANDE-BRETAGNE.

Sentence arbitrale de Don Joaquin Fernandez Prida appelé par le Roi d'Espagne à décider, en vertu de la Déclaration du 30 janvier 1909,*) la question de la délimitation du territoire britannique dit „Walfish Bay"; rendue à Madrid, le 23 mai 1911.

Parliamentary Papers. Africa No. 1 (1911). — Cd. 5857.

Translation of the Award of Don Joaquin Fernandez Prida, Arbitrator in the matter of the Southern Boundary of the Territory of Walfisch Bay.

Don Joaquin Fernandez Prida, Senator of the Kingdom of Spain and Professor of International Law at the University of Madrid, performing the functions of arbitrator conferred on him by His Majesty the King of Spain in pursuance of the Declaration of the 30th January, 1909, signed at Berlin by the representatives of Germany and Great Britain, to settle the question pending between those Powers on the subject of the southern frontier of the British territory of Walfisch Bay, has given in the said capacity, after having examined the facts and arguments adduced by the two parties, the following award:

*) V. N. R. G. 3. s. II, p. 705.

I. Whereas on the 12th March, 1878, the captain of the ship „Industry," belonging to the British squadron, took possession, in the name of Her Majesty the Queen of Great Britain and Ireland, of the port and station of Walfisch Bay and of certain adjacent territory, announcing by the necessary proclamation that the annexed district was bounded as follows:

„On the south by a line from a point on the coast 15 miles south of Pelican Point to Scheppman's Dorp; on the east by a line from Scheppman's Dorp to Rooibank, including the plateau, and thence to 10 miles inland from the mouth of the Swakop River; on the north by the last 10 miles of the course of the Swakop River";

II. Whereas the said annexation and proclamation were preceded by various preparatory documents emanating from the Cape Government, the Colonial Office at London, and other British authorities, amongst which documents a special series was constituted by those intended to fix the extent and boundaries of the territory which was to be annexed, together with the harbour of Walfisch Bay, the following being especially noteworthy in that series:

1. The communication of the 23rd January, 1878, addressed by Lord Carnarvon to Governor Sir H. Bartle Frere, which states that „the British flag should be hoisted in Walfisch Bay, but that, at least for the present, no jurisdiction was to be exercised beyond the shores of the bay itself";

2. The telegram of the 23rd February, 1878, addressed by the Governor from King William's Town to Captain Mills, the Colonial Secretary, stating with regard to Walfisch Bay that it would be preferable that the naval officer should, on the hoisting of the flag, proclaim sovereignty only over the station and the bay itself and a radius of 10 or 12 miles or so, according as it might appear necessary after consultation with Palgrave, it being added to these instructions that, although the author of the telegram proposed to ask for the increase of the territory annexed, it was understood that „for the present the annexation should be confined to the precise limits indicated by the Minister";

3. The communication of the 26th February, 1878, addressed by the Colonial Secretary of Cape Colony to the senior naval officer at Simon's Bay instructing him to direct the captain of His Majesty's ship „Industry" to proceed to Walfisch Bay and hoist the British flag and take possession of the port, station, and adjacent territory to a distance in the interior which he should determine in consultation with Mr. Palgrave if he were on the spot; and

4. The supplementary instructions addressed on the 28th February, 1878, by Captain J. Child Purvis to the captain of the ship „Industry," Richard C. Dyer, in which, among other things, he is told to consult with Mr. Palgrave „as to the exact amount of territory to be annexed";

III. Whereas on the date of the Proclamation of Annexation Commander Dyer, in conformity with instructions received, drew up a short

memorandum addressed to Commodore F. W. Sullivan, with the intention of explaining the circumstances of the annexation, and in which he states among other things:

That, owing to the absence of Mr. Palgrave, he judged it necessary to decide for himself the extent of the territory to be annexed, „being guided generally by the telegram from Sir Bartle Frere, dated the 23rd February, and by the requirements of the Bay"; that he fixed the boundaries of the said territory in accordance with the information and advice of Mr. Ryden, representative of Ericsson and Co., of Capetown, and of other white people residing in the colony; that „as there was no fresh water nor pasture in Walfisch Bay," he considered it indispensable that there should be included in the annexation, if possible, a place containing both these things, and that „with this object he made a journey in a bullock-wagon to Rooibank, taking with him two officers as companions to view the plateau," that „this place is considered with some differences of opinion as from 13 to 18 miles to the east of Walfisch Bay, but that it is nine hours by wagon," and „is an oasis thickly covered with grass and scrub and well watered, and the nearest point available to supply the Bay with water and good pasture;" that „as there are no fixed points on the immediate coast, it was decided that the plateau of Rooibank and Scheppmansdorf to the south-east should be included in a line drawn from 15 miles south of Pelican Point to 10 miles inland from the mouth of the Swakop," and that the natives especially invited to be present at the annexation ceremonies and modestly entertained in honour of the solemnity were apparently very pleased and satisfied with the annexation, which was explained to them by means of an interpreter;

IV. Whereas on the 1st May, 1878, Commodore F. W. Sullivan sent to Sir B. Frere a copy of the memorandum mentioned in the preceding recital, accompanied by a communication in which he states that „the boundaries fixed by Commander Dyer appear reasonable";

V. Whereas, by Letters Patent dated at Westminster the 14th December, 1878, Her Britannic Majesty ratified and confirmed the aforesaid proclamation of the 12th March of the same year, and authorised the Governor of the Colony of the Cape of Good Hope with the assent of the Legislature to declare by a new proclamation that from the date fixed in it „the harbour, station, and territory of Walfisch Bay," as demarcated by Commander Dyer, should be annexed to the said colony;

VI. Whereas on the 25th July, 1884, the Legislature of the Cape of Good Hope consented to the annexation to that colony of the harbour or station of Walfisch Bay and of the surrounding territory; in virtue of which the Governor, Sir Hercules G. R. Robinson, proclaimed on the 7th August of the same year the incorporation in Cape Colony and subjection to the laws in force there of the territory of Walfisch Bay, and confirmed the demarcation of the same contained in former documents,

and established there in addition a court constituted by a resident magistrate;

VII. Whereas on the date of the 7th August aforementioned the zone on the West African coast comprised between the mouth of the Orange River and the 26th parallel south latitude was placed under German protection; and, soon after, the adjacent coast comprised between the 26th parallel and Cape Frio, with the exception of the British territory of Walfisch Bay;

VIII. Whereas in the month of March 1885 a commission was appointed, entitled „The Mixed Claims Commission of Angra Pequeña and the West Coast," formed by Dr. Bieber as German representative and Judge Shippard as British representative, and the said commission, after conducting an enquiry on oath, alluded to above, relative to the limits of Walfisch Bay, signed on the 14th August of the said year 1885 a letter addressed to the High Commissioner, Sir H. Robinson, in which, with the object of correcting errors and deficiencies noticed in the determination of the boundaries, the following is stated:

„The limits of the territory of Walfisch Bay laid down in Commander Dyer's proclamation, and in the Letters Patent of 1878, in the Annexation Act of 1884, and in the proclamation of the 7th August of the same year, should be corrected as follows:

„‚Scheppmansdorf' should be designated as ‚Scheppmansdorf' or ‚Rooibank,' and what has been called ‚the Rooibank' should be ‚Rooikop.' The Admiralty charts should also be corrected to agree with this. The eastern boundary marked on Dr. Theophilus Hahn's map published in 1879, and copied in Juta's map of 1885, is incorrect";

IX. Whereas the Governor and High Commissioner, Sir H. Robinson, addressed a communication to Colonel Stanley dated the 24th September, 1885, on the subject of the statement of the mixed commission, quoted above, taking into account the mistakes pointed out in the text of the proclamation of the 12th March, 1878, and the official documents reproducing it, observing, besides, that the mistake arose from Commander Dyer calling the hill near the centre of the eastern frontier „Rooibank," when its name is really „Rooikop," adding that Rooibank and Scheppmansdorf are two names for the same place, which is a township situated on both banks of the River Kuisip, remarking that there is no difference of opinion between the German and British commissioners with regard to the real boundary of the territory of Walfisch Bay on the eastern side, but that this boundary has been incorrectly described in the various documents defining it, asking him further whether he considered himself to possess the necessary powers to publish a new proclamation correcting the mistake alluded to; and stating finally that „nevertheless it might be convenient, before publishing a new proclamation or Letters Patent, to await the conclusion of the survey of the boundaries of the territory of Walfisch Bay which the Colonial Government was carrying out at that moment, as it would be desirable that the boundaries of the plateau

between Scheppmansdorf and Rooikop included in the territory should be defined with precision";

X. Whereas the British Government, in agreement with the final observation contained in the communication quoted in the preceding recital, postponed the publication of new Letters Patent setting forth a complete and exact description of the territory of Walfisch Bay until the conclusion of the labours of examination and survey which the surveyor (Mr. Wrey) was then carrying out on the spot by the orders of the Cape Government, the results of which labours with regard to the fixing of the boundaries could, according to a letter addressed by the Colonial Office to the Foreign Office on the 22nd October, 1885, be communicated to the German Government before the publication of the Letters Patent referred to;

XI. Whereas Mr. Wrey, after the termination of the work of inspection and survey which the Cape Government ordered him to undertake, drew up a report dated the 14th January, 1886, accompanied by a map on which he marks out the territory of Walfisch Bay by means of thirteen pillars designated by as many letters in alphabetical order in the following manner:

Pillar A, situated at Pelican Point;

Pillar B, 15 geographical miles to the south of the former, near the coast;

Pillar C, behind the mission station at Rooibank;

Pillars D, E, and F, between the preceding pillar and Ururas, marking a line which separates the sand-hills from the left, or south, bank of the River Kuisip;

Pillar G, on the opposite side of the same river, coinciding with the extremity of the land asked for by Messrs. Wilmer and Evensen in Ururas;

Pillar H, on the top of Rooikop, in the desert of Nariep;

Pillar J, on the top of the black rock called Nuberoff, situated on the south bank of the River Swakop, at a distance of 10 miles approximately from its mouth;

Pillars K, L, and M, following the general direction of the course of the Swakop towards the sea; and

Pillar N, in Walfisch Bay, in front of the Resident's house;

XII. Whereas, in accordance with the demarcation mentioned, the area now in dispute, *i. e.*, the fertile tract of the bed of the Kuisip, bounded by the mission station at Rooibank and the place called Ururas, some 5 miles distant from it, is included in British territory; which tract, in the judgmeut of Mr. Wrey, as it appears from his report quoted and the supplementary report dated the 31st August, 1889, is the only one whose natural features can correspond with the „plateau" spoken of in the proclamation of the 12th March, 1878, since, although the word „plateau," he says, is a term unsuited to the land referred to, the

inspection and verification carried out made it impossible for him to refer to anything but the area or surface in question, that is to say, to the area which the waters of the Kuisip, which ordinarily run underground, cover when in flood from Rooibank to Ururas in one direction and from the desert to the boundary of the dunes or sand-hills in the other;

XIII. Whereas in his communication of the 8th June, 1886, Dr. Bieber, German Consul-General at the Cape, called the attention of the British authorities to the action of Mr. Wrey, who (instead of stopping at Scheppmansdorf to draw the eastern frontier of the territory of Walfisch Bay from that place to Rooikop), had beaconed the bed of the Kuisip as far as Ururas in spite of the fact that the last-named place is not mentioned in the Act or in the Proclamation of Annexation;

XIV. Whereas, in reply to Dr. Bieber's communication, the following documents were furnished him amongst others:

1. A report, addressed on the 22nd August, 1886, to the Ministry of Crown Lands by the Surveyor-General of the Colony of the Cape of Good Hope, Mr. Smidt, giving it to be understood that Mr. Wrey proceeded in accordance with instructions received, based in their turn on a memorandum by Judge Shippard, drawn up in June 1885, according to which the frontier-line should include the pastures of Scheppmansdorf as far as Ururas, and should continue thence to Rooibank, in order that in this way the whole of the plateau should be included in British territory;

2. A communication addressed by the Ministry of Crown Lands to the Colonial Office, dated the 1st September, 1886, in which it is stated that Judge Shippard's opinion should be ascertained as to Dr. Bieber's claim, in view of the circumstance that he had drawn up the memorandum which served as the basis of Mr. Wrey's instructions, and of the lack of precision in the terms employed in the Act of Annexation and in Commander Dyer's proclamation, and because the fact of there being no mention of Ururas in the said documents makes it difficult to understand the reasons why Mr. Shippard considered that the southern boundary should be extended in an easterly direction to Ururas instead of stopping at Rooibank or Scheppmansdorf;

3. A report drawn up by Mr. Shippard on the 30th September, 1886, in consequence of what was indicated in the preceding document, in which he expresses his agreement with the demarcation carried out by Mr. Wrey, basing it on arguments which, since they were accepted and reproduced in the British memorandum in the course of the arbitration proceedings, will have to be mentioned later, as also all the other arguments which are in an analogous position;

XV. Whereas, in his communication of the 20th October, 1886, Dr. Bieber, when invited to express his opinion as to the documents cited in the preceding recital, insists upon considering Mr. Wrey's demarcation inadmissible, alleging, in justification of this opinion, various reasons, the substance of which was incorporated afterwards in the German memorandum which will be dealt with at the proper moment;

XVI. Whereas the Ministers of the Colony of the Cape of Good Hope, in minutes dated the 4th November, 1886, and the 25th July, 1887, showed their complete agreement, in spite of Dr. Bieber's observations, with Mr. Wrey's demarcation, and pressed in the first of the said documents for its approval, believing it to be in accord with the fixed intention of His Majesty's Government, and adding in the second new reasons in support of the said demarcation;

XVII. Whereas at this juncture Commander, afterwards Captain, Dyer was consulted by the British Government as to the reasons which had guided him in drawing up the Annexation Proclamation, and stated on the 14th September, 1887, that his principal object in mentioning the plateau above Rooibank was to include the pasture-land situated in the bed of the River Kuisip, as persons acquainted with the locality advised him, and that the adoption of the line drawn 15 miles south of Pelican Point carried out the intention of including Scheppmansdorf and the neighbouring pasture-lands;

XVIII. Whereas, since on the facts being made known, a considerable correspondence followed between the British and German Governments and the two parties did not arrive at a solution of the difficulty in the course of the negotiations, it was agreed to appoint a mixed commission consisting of Dr. Goering, as German representative, and Colonel Philips, as British representative, who, being unable to draw up a joint report, signed in January 1889 separate reports maintaining the original views of their respective Governments and agreeing only in recognising, as each of the commissioners stated separately

1. That Mr. Wrey's and Dr. Stapff's maps represent accurately the position and topographical features of the ground;

2. That, if it is considered that the plateau in dispute is the river plain beyond Scheppmansdorf, it should be included as far as Ururas;

XIX. Whereas, when Captain Dyer, on being invited by the British Government to furnish a new report in reply to the observations and arguments formulated by Dr. Goering, stated on the 24th April, 1889:

That, although his first intention had been to carry out the annexation of Walfisch Bay strictly in accordance with the terms of the telegram sent by the Governor to Captain Mills on the 22nd February, 1878, it was decided, after a conversation with Mr. Ryden and others and for the reasons explained in his letter of the 12th March of that year, to include Rooibank in the annexed territory;

That, having received information that pasture-lands existed in the neighbourhood of Scheppmansdorf to the south-east of Rooibank and that it was desirable that they should be included in the annexation, he decided to include Scheppmansdorf entirely as his principal reason for mentioning this place in defining the boundaries was to secure the plateau or lands which he understood to belong to it;

That, as there was no map of the interior and reference could only be made to the ordinary map of the coast, he had not been able to mention

concrete points and had been obliged to rely on the experience of the persons resident at the bay and to their description of the places in question;

That he had no recollection of the conversation alluded to by Dr. Goering with reference to Mr. Koch, a witness of the annexation (according to which Captain Dyer had not accepted the advice to annex any part of the valley of the river beyond Scheppmansdorf, stating that he was not authorised to do so, and that he had already exceeded his instructions in drawing the boundary as far as that place), and that, on the other hand, it was difficult to understand Mr. Koch, whose statements, in the last resort, were sufficiently refuted by the fact that Scheppmansdorf had been included on his advice in the annexed territory, and by the fact that the said Mr. Koch had stated, before the proclamation was published, that he was in agreement with the boundary laid down in it;

XX. Whereas, in view of the discrepancies revealed in the course of the discussion, of which mention has been made above, article 3 of the agreement signed at Berlin by the representatives of the British and German Governments on the 1st July, 1890, contained the following provisions:

„The delimitation of the southern boundary of the territory of Walfisch Bay is reserved for arbitration unless it shall be settled by the consent of the two Powers within two years from the date of the conclusion of this agreement";

XXI. Whereas on the two years mentioned in the Agreement of 1890 elapsing without the high contracting parties reaching an agreement about the limits of Walfisch Bay, an effort was made nevertheless to solve the matter in dispute by appointing in 1904 a new mixed commission formed by Herr von Frankenberg, nominated by the German Government, and Mr. John J. Cleverly, as British representative, who also failed to settle the dispute, the German commissioner formulating on this occasion claims in regard to another part of the boundary not till then discussed and considered by the British representative as foreign to the present controversy;

XXII. Whereas on the 30th January, 1909, the representatives of the high parties interested in the matter signed a Declaration at Berlin, having, in accordance with the Agreement of the 1st July, 1890, recourse to His Majesty the King of Spain to designate from amongst his subjects a lawyer to decide as arbitrator the affair relative to the demarcation of the southern frontier of the British territory of Walfisch Bay in accordance with the procedure laid down in the same declaration;

XXIII. Whereas by the Royal decree of the 7th March, 1909, published in the Gazette of Madrid of the 12th of the same month and year, His Majesty the King of Spain deigned to appoint the undersigned to exercise the functions of arbitrator alluded to in the preceding paragraph, the acceptation of which functions was verbally notified by the undersigned

on the 19th of the month and year above mentioned at a meeting held at the Ministry of State at Madrid in the presence of the Minister of State and of the German and British Ambassadors;

XXIV. Whereas on the 29th November, 1909, and therefore within the space of twelve months laid down in article 2 of the Declaration of Berlin of the 30th January of that year, the Ministry of State transmitted to the undersigned the memoranda in which the German and British Governments state and support their respective claims with regard to the question in dispute between them, the German memorandum being accompanied by four annexes containing authenticated copies of documents inserted in it and the British memorandum by a full-scale copy of Mr. Wrey's map already referred to;

XXV. Whereas the German memorandum, after reciting the history of the question, classifies the arguments in support of the claims advanced in it and the statement made of them, dividing them into various groups designated by as many letters in alphabetical order; examining in the first group, marked (A), the official statements of Captain Dyer interpreted in accordance with the usual technicalities and the topographical conditions of the territory of Walfisch Bay; dealing in the second, marked (B), with the official statements of Captain Dyer considered in the light of the economic circumstances of the population, native and white, of the said territory, and further with what Rooibank, Scheppman's Dorp, and Ururas and their mutual connection are or imply; the third group, marked (C), being devoted to showing the discrepancy between the British views before and after 1885, with regard to the drawing of the boundary and to fixing the facts which favour the German views or claims and to the consideration of the information obtained about them; discussing in the fourth, marked (D), the demarcation carried out by Mr. Wrey and the question of how far it is binding on Germany from the point of view of international law; formulating in the fifth, marked (E), the questions put by the German Government to the arbitrator; and completing all the arguments contained in the preceding groups by an appendix containing some British documents and a criticism of some of them;

XXVI. Whereas in the first group, marked (A), it is alleged:

That the word „plateau“ employed in Captain Dyer's proclamation always expresses the idea of a „high plain“ and designates besides in the present case, having regard to the text of the said proclamation, a district included in the territory of Walfisch Bay, by the eastern frontier starting from Scheppmansdorf;

That both conditions are fulfilled, if it is understood that the plateau in question is the Namib, since this is in actual fact a high plain situated to the north-east of Scheppmansdorf;

That the British magistrate at Walfisch Bay, Mr. Simpson, alluded to the Namib, when on being questioned before the „Mixed Claims Commission for Angra Pequeña and the West Coast,“ he stated in a declaration

of the 16th April, 1885, that „he had crossed *from Rooibank to the River Swakop by the plateau*";

That the Governor of Cape Colony, Sir Hercules Robinson, also employed the word „plateau" to designate the Namib, since, in a letter of the 24th September, 1885, addressed to Colonel Stanley, he had expressed the desire that the limit of the *plateau between Scheppmansdorf and Rooibank* should be accurately defined;

That the portion of the bed of the River Kuisip comprised between Scheppmansdorf and Ururas and considered by the British Government as the plateau alluded to in Captain Dyer's proclamation neither complies with the condition of being a high plain (since it is a watercourse of lower elevation than the Namib and the dunes which serve as its boundary) nor with the condition of being included in the territory of Walfisch Bay by the eastern frontier starting from Scheppmansdorf;

That the impropriety of applying the word „plateau" to this part of the bed of the Kuisip is recognised by the British commissioner, Mr. Philips, when he says in his report of the 23rd February, 1889, that the use of the word „plain" to designate the country referred to „would have been more satisfactory as a technical term and less open to misinterpretation";

That Mr. Wrey expresses a similar opinion when he says in his report of the 14th January, 1886, that the word „plateau" is an erroneous term as applied to the tract of land situated between Rooibank and Ururas;

That therefore the interpretation of Captain Dyer's proclamation held by Great Britain implies the supposition that he made a mistake in the use of the most elementary geographical expressions which, in view of his profession, must have been familiar to him; whilst the interpretation put on it by Germany assumes that the text of the proclamation is entirely correct, except for the confusion of Rooibank with Rooikop, and that the supplementary report, although less clear, leaves hardly anything to be desired;

That the intentions of Captain Dyer, to which his second letter or communication of the 14th September, 1887, refers, cannot be taken into account to decide the question unless they were expressed in the official proclamation;

That as to the indication in the said report that the plateau is situated *above* Rooibank, this new word „above" is intelligible as referring to the Namib, which precisely is situated „above" Rooibank;

That if Captain Dyer had desired to include in British territory the flat pasture-land towards Ururas, as Mr. Wrey's demarcation includes it, he should have said so explicitly in his second letter when he had before him every kind of map;

That according to Captain Dyer's report dated the 12th March, 1878, the fact that there was in the coastal region no fixed point which could serve as a natural boundary was the reason which, combined with the wish of the colonists, led to the interior of the country as far as Scheppmansdorf being included in the annexation, because this place was considered

as one of the fixed points of the line which was to bound the territory of Walfisch Bay on the land side;

That in the said report the words „this place . . . . is an oasis“ referred to Rooibank, and not to the plateau or to the part of the bed of the Kuisip between Rooibank and Ururas, because the plateau cannot be called „a place“ nor a strip arbitrarily taken in the bed of a river be designated by the word „oasis,“ above all when the vegetation on it is less luxuriant than on other contiguous strips;

That to carry out the desire of Captain Dyer to include in the annexation a territory where water and pasture were to be found, there was no need to go as far as Ururas, but that it was sufficient to draw the frontier from Scheppmansdorf, all the more so as between that place and Ururas, according to the evidence of the missionary Boehm, the pastures ordinarily end at the bed of the river, as it is always bare and grassless, although covered with trees;

That when in Captain Dyer's report the inclusion of the plateau „and Scheppmansdorf to the south-east“ is spoken of, these words can be understood in a double sense: either that Scheppmansdorf limits the territory to the south-east, or that it is situated to the south-east of the interior plateau; and, finally,

That the phrase „including the plateau,“ contained in the Proclamation of Annexation, and reproduced in the report of the same date, is a phrase simply used by Captain Dyer with the object of explaining the motive and manner of annexing a part of the interior of the territory which he incorporated in excess of his instructions and in accordance with his own views;

XXVII. Whereas in the second group of arguments, marked (B), it is alleged on the part of the German Government:

That Captain Dyer, in deciding to annex a district containing fresh water and pasture, only had regard to the interest of the white colonists resident at Walfisch Bay, without considering at all the convenience of the native population, especially that of not dividing the so-called „grazing commonage“ of Rooibank, used by the inhabitants of Scheppmansdorf, since there is not the slightest allusion to it in his explanatory report, although he might have given it as a further reason in justification of his breaking his instructions;

That from the whole context of the Proclamation of Annexation is deduced the intention of establishing in the neighbourhood of Scheppmansdorf not a vague boundary pending further decision, but strict and absolutely precise limits as required by the instructions emanating from Captain Purvis, which directed Commander Dyer to fix in the Proclamation of Annexation, after consulting with Mr. Palgrave, the exact quantity of territory which was to be annexed;

That the place called Rooibank, near Scheppmansdorf, which designates the country surrounding a spring, near a red vein of granite which crosses the Kuisip, is of an undecided character, its extent depending on individual

views and on the greater or lesser quantity of pasture used for the cattle belonging to persons residing there, it being understood, until it is expressly stated otherwise, that the boundary between Rooibank and Ururas in half-way between the wells which give names to the two points;

That the mention in Captain Dyer's proclamation of the place called Rooibank has no bearing on the question of boundaries, since „the Rooibank“ spoken of in it is not a place or settlement, but a hill or large rock some distance from the Kuisip;

That, on the contrary, when it was a question of establishing a fourth fixed point in the description of the south-east corner of the annexed territory, Captain Dyer (who intentionally avoided the use of the expression „Rooibank,“ the indefinite character of which was known to him through his relations with the natives) had mentioned Scheppmansdorf expressly twice, a name which expresses neither less nor more than the mission station situated in Rooibank, consisting of two houses near together;

That there can be no question of a village in the district of Scheppmansdorf, and that this name only indicates that when the station founded by the missionary Scheppman in 1845 was consecrated, there was a hope which was afterwards not realised that a native hamlet would be formed round it;

That the British assertion that the territory of the tribe of the Topnaars extended as far as Ururas and ought not to be divided or split up, as it would be if the frontier were drawn in the position claimed by Germany, is refuted by the circumstance that the Topnaar Hottentots are really nomads living along the whole course of the Kuisip right into German territory, at least as far as Hudaob, whence it follows that the territory of the said tribe was divided after the annexation of Walfisch Bay, whether the frontier was fixed at Scheppmansdorf or Ururas;

That „the village“ and „grazing commonage“ of Scheppmansdorf repeatedly cited by Great Britain, assuming that the latter extends to Ururas, do not really exist, since, with one very special exception, life in common in the manner suggested by a village does not correspond with either the character or the mode of living of the Hottentots, nor can there be any question of grazing commonage without the antecedent condition of a juridical community to which it could be attributed;

That the British supposition that the pretended grazing commonage at Scheppmansdorf ought to have been included in the annexation, since otherwise the „inhabitants of the village“ would not have shown satisfaction at it, as Captain Dyer expressly says they did in his report of the 12th March, 1878, is a supposition founded on an incomplete quotation of the passage in the report, which alludes not to the „inhabitants of the village of Rooibank,“ but to natives whose habitual residence is not stated („summoned from some distance“), which natives, on the other hand, if they displayed joy at the act of annexation, did so in any case, given their fondness for Cape brandy, on account of the entertainment in

which they took part and not because the ceremonies, of which the entertainment formed, a part were intelligible to them;

That the declarations made by the witnesses Mr. Simpson and the Rev. J. Boehm in 1885 before the mixed commission on the subject of the grazing commonage of Scheppmansdorf or Rooibank, the meaning of the name Awahaus, and the identity of Ururas and Rooibank were full of contradictions;

That, in proof of this, on comparing the said declarations, it is noticed with regard to the first that the witness Simpson states successively that „he does not believe that any community was indicated by the name of Rooibank“ (answer to question 384), that „if the grazing commonage includes all the plateau it would include Ururas“ (answer to question 395), and that „the commonage of Rooibank extends to Ururas, where a certain number of Bastards have gardens given by Mr. Palgrave and the magistrate who was the witness's predecessor, which Bastards were in the habit, when the grass was finished at Rooibank, of sending their cattle along the river to Ururas, considering it as the pasture of Rooibank“ (answers to questions 408 and 409);

That, with regard to the second, the witness Mr. Simpson declares that the place called Awahaus is designated by the name of Ururas (answer to question 381), whilst the witness Boehm states that Rooibank is the translation of the Namaqua name „Awahaus“ (answer to question 421);

That, with regard to the third, Boehm declares that Rooibank, Ururas, and Scheppmansdorf are near one another (answer to question 422), and declares afterwards that Rooibank or Scheppmansdorf and Ururas are not very close, but are from three to four hours apart (answer to question 426);

That, with regard to the last, Simpson declares that it would be difficult to say that Rooibank is Ururas (answer to question 404), and Boehm affirms that he has heard it said that they are scarcely half a-day apart (answer to question 425), adding immediately that the commissioner to whom the witness is speaking could cover the distance which separates them in some three hours (answer to question 426); and, finally,

That, whatever attitude is adopted towards these statements, so divergent one from the other, and towards their testamentary value in the present case, nevertheless it is not explained why, if Captain Dyer understood by „plateau“ the bed of the Kuisip and the „commonage“ and desired to include in the annexation the strip of valley midway between Scheppmansdorf and Ururas, he did not mention this last name, which was generally known to the natives, in the text of the proclamation—a name which he did not insert, nevertheless, in the said text, in order to exceed as little as possible the instructions received by him, and in view of the fact that the principal pastures and springs of Scheppmansdorf were situated below that place, above which Captain Dyer did not desire to annex any territory, in spite of the fact that the agent Koch and the trader Ryden advised him to do so, as stated, in connection with the

evidence of the former, in Dr. Goering's report alluded to in recital XVIII of this arbitral decision;

XXVIII. Whereas in the third group of arguments, marked (C), it is alleged:

That till the year 1885 it was admitted by the British authorities that the district situated between Scheppmansdorf and Ururas, now claimed by Cape Colony, did not belong to the territory of Walfisch Bay;

That this is proved by the English maps made before the date mentioned, as according to them British territory extends only to Scheppmansdorf, since, although it is true that the eastern boundary shown on the maps published by the Admiralty is marked „approximate boundaries of the station of Walfisch Bay," this indication of the boundary being approximate refers only to the circumstance that the proposal put forward by the Angra Pequeña and West Coast Mixed Commission was then awaiting a decision, the object of the proposal being to change the word „Rooibank" employed in Dyer's proclamation and substitute for it the word „Rooikop";

That a second proof is furnished by a contract for the concession of mining rights signed the 4th August, 1883, in which Rooibank, „within the limits of the territory of Walfisch Bay," is designated as the limit of the mining area granted. In view of the fact that the contract had been signed before a British magistrate, this description could not be explained if England already held the view that the territory extended not only to Rooibank but also to Ururas, and it would also be impossible to explain, if this was the view held, the declaration made by Mr. Deary before the mixed commission, confirmed by the evidence of Mr. Evensen, that the mining concessions were beyond Rooibank and outside British territory;

That in the same sense as the preceding proofs a third proof is constituted by the fact that, before Walfisch Bay was declared an open port, the goods destined for Damaraland and the adjacent territory inland were disembarked at Sandwichhafen and conveyed thence to their destination behind the church of Scheppmansdorf without paying customs dues and without the British authorities raising any objection to such expeditions, or to the storing of the goods in the warehouse of the trader Wilmer, situated 1,600 metres to the east of the mission station at Scheppmansdorf, all of which goes to prove that at that time the belief prevailed that the territory of Walfisch Bay did not extend beyond the said station eastwards;

That a fourth proof analogous to the preceding ones is to be found in the attitude adopted by the British magistrate Mr. Simpson on the occasion of a murder committed by the chief of the Hottentots, Jan Jonker Afrikander, who hanged a Berg Damara from a tree situated, according to a report written by the same Mr. Simpson, and dated the 18th March, 1885, „in German territory," „at some 600 yards from Rooibank (Scheppmansdorf)," from which it follows that the magistrate considered the eastern boundary of the territory of Walfisch Bay, in the

valley of the Kuisip (the only ground on which there are trees within the said territory), to be very close to Rooibank and not to Ururas, or, what is the same thing, he thought the bed of the Kuisip, which extends from the neighbourhood of Scheppmansdorf as far as Ururas, beaconed later by Mr. Wrey and now claimed by the British Government, to be German territory; that the sworn declarations of the missionary J. Boehm, of the trader J. Sichel, of the farmer G. Evensen, and of Dr. W. Belck confirm as a whole the German assertion that, until the date of Mr. Wrey's survey, both the British authorities and the colonists living in that locality, who were acquainted with the question of the boundaries, understood that the eastern frontier of the territory of Walfisch Bay passed near the church at Scheppmansdorf, or, more precisely, crossed a water-hole situated some 100 paces to the east of the mission-house, and that no one thought of extending the said territory to Ururas;

That the missionary Johannes Boehm, in a declaration made on the 30th April, 1909, by the request of the German Government (after various considerations about Scheppmansdorf, and saying that this place, „about $1^1/_2$ kilom. in extent, previously called Awahaus—the red bank—or Rooibank," is the „principal place of the Namas or Hottentots," although without the fixed limits proper to European villages or populated places, and „without exact limits for the community or tribe"), attests in effect that, as he had heard the missionary Daniel Cloete, a witness of the annexation, say, Captain Dyer had laid down the eastern boundary of Walfisch Bay „near a well situated at some 100 paces to the east of the mission-house" of Scheppmansdorf; that this had also been the unanimous opinion of the people on the subject of the drawing of the boundary, as it was also the unanimous opinion that the phrase „including the plateau" contained in the Proclamation of Annexation referred to the Namib; that the best pastures of the district which Captain Dyer wished to include in British territory are situated to the west of Scheppmansdorf; that to transfer the boundary more to the east had no visible object, unless it was desired to annex more river sand or a larger and entirely barren strip of the Namib; that when once the customs were established in Walfisch Bay the goods landed at Sandwichhafen were conveyed to Damaraland by the route above Scheppmansdorf without paying dues of any kind and without protest from the British authorities, although it must be noticed that such an importation of goods could not be considerable, and lasted besides only a short time, because the customs at Walfisch Bay produced so little that they were not sufficient to maintain one functionary; and, finally, that Mr. Wrey continued his survey beyond the limits admitted until then, carrying it up-stream as far as Ururas, by which the only road possible for the transit of goods coming from Sandwichhafen was cut, and the business was abandoned by the trader Wilmer, a British subject, who was dedicating himself to it, and in whose opinion Mr. Wrey's demarcation implied a usurpation of German territory;

That the trader Joseph Sichel, in a declaration made on the 28th May, 1909, made the same statement: That till the arrival of Surveyor Wrey it was the common opinion of the inhabitants of the colony that the south-eastern extremity of British territory was „near the church of Scheppmansdorf," „which place is generally called Rooibank"; that the traders Wilmer and Evensen, who were habitually engaged in the traffic mentioned in the preceding paragraph, „had their house and store to the east of the mission station of Scheppmansdorf some ten minutes' walk" ($1^1/_2$ to 2 kilom.), and they considered that this house lay within German territory, as is proved by the name Wilmerseck, chosen by them for their establishment, a name whose final syllable is the German word „eck," which means „corner"; and, finally, that the traffic carried on by the firm of Wilmer and Evensen made considerable competition with the traders of Walfisch Bay;

That Dr. Waldemar Belck, in a declaration made at the request of the German Government on the 6th August, 1909, also states: That the word „Namib" means in Hottentot a high plain or plateau; that the place in which the mission-house of Scheppmansdorf is situated is always called by the natives Rooibank, and does not constitute a fixed village in the European sense, because the huts of the Topnaars (who live there in considerable numbers, as they did when the witness visited the spot in the month of November 1884) are habitually abandoned by the majority of the families living in them as soon as the gathering of the fruit of the nara is finished; that the house, or rather the church, of the mission mentioned so many times was generally considered in 1884 as the limit of British territory; that the goods landed years before in Sandwich Harbour were conveyed to the interior duty free by Rehoboth Bastards, without protest from the British authorities, who allowed them to pass through the neighbourhood of the mission station at Rooibank, which proves that those authorities considered the territory of Walfisch Bay to terminate there, as did also the persons who were resident in the locality or who were acquainted with it; that after the month of November 1884 the traders of Walfisch Bay, and among them Mr. Carington Wilmer, also began to transport goods from Sandwich Harbour to Rooibank, to avoid paying customs dues; that the British magistrate, Mr. Simpson, on being repeatedly asked to state whether objection would be raised to this transporting of goods as far as Fredericksdam (a point near the frontier of the territory, not clearly determined then), had avoided a precise answer, whilst as regards Rooibank he had raised no difficulties, and had confined his vigilance to stopping smuggling into the district which extends to the property of the mission, where, in the opinion of all, German territory began, and consequently the jurisdiction of the British authorities ceased; that, as regards Fredericksdam, the witness, after fixing its position astronomically, was confirmed in his presumption that the said place was within German territory, although very near the British southern boundary, this being the reason why he instructed the agent Koch to put up a

notice of a purely private character, with the words „territory of Lüderitz," at a certain distance from this boundary, so as to be sure of remaining in German territory; and that a new proof that the British authorities considered that the territory of Walfisch Bay ended near the property of the Rooibank mission was furnished by the fact that in January 1885 the resident magistrate did not arrest or pursue as a deserter a Cape police constable who, after abandoning his duty, stayed for four days a little beyond the mission buildings secure that no one could molest him, as he was on territory under German jurisdiction;

That the farmer George Evensen testifies in a declaration made on the 14th June, 1909, that according to general opinion, and the intentions attributed to Captain Dyer, the southern and eastern limits of the territory of Walfisch Bay meet approximately at the spot occupied now by the Scheppmansdorf mission-house at Rooibank; that the house inhabited by the witness and his partner, Mr. Wilmer, in 1885 (it stood south-east of the mission buildings according to a sketch presented by the former) was constructed on ground which, in the opinion of all, was German, the magistrate at Walfisch Bay included, since he did not demand from Messrs. Wilmer and Evensen the payment of customs dues nor of any other impost on the goods that they conveyed to the said house from Sandwichhafen; that the tree on which Jan Jonker Afrikander hanged a Berg Damara early in 1885 was situated some 200 metres to the south-east of the house inhabited by the witness, and in territory undoubtedly German, according to the common opinion at that time; and that where the mining concession contract mentioned in paragraph 4 of this recital contains the phrase „Rooibank within the territory of Walfisch Bay," it means, in the opinion of the witness, who took part in the drafting of the document, that „the western corner of the concession ought to coincide with the southern boundary of the territory of Walfisch Bay";

That, lastly, when in 1885 the British view was modified as to the situation of the boundaries in the Kuisip valley and the authorities dissociated themselves from the earlier general opinion attested in the preceding declarations, they repudiated Mr. Shippard's mistake in thinking that Ururas was the same as Awahaus, the native name of Rooibank, and in addition they invoked, among other reasons, to justify the extension of British territory to Ururas, the consideration urged by Mr. Wrey that the land at the end of this territory (*i. e.*, of that limited to the east by the boundary pillars (F) and (G) mentioned in recital XI of this award) had been asked for by the Europeans Wilmer and Evensen, whose private rights in the land granted, as was shown above, indisputably enjoyed British protection; to which it may be answered that such an invocation of the private interests of subjects which would naturally remain equally guaranteed under German administration cannot have any value in the decision of a boundary question;

XXIX. Whereas in the fourth group of arguments, marked (D), it is stated:

That the pillar (B) set up by Mr. Wrey 15 miles south of Pelican Point is not properly placed, since this distance of 15 miles which separates it from pillar (A) was measured, as stated by the German commissioner Von Frankenberg in 1904, in geographical nautical miles of 1,852·8 metres, instead of being in statute miles of 1,609 metres, with the result that the line (A—B) is increased from 24·1 to 27·8 kilom. approximately, or by 3 kilom. 700 m.;

That against the propriety of the use of nautical miles in drawing the line (A—B) the fact is to be urged that surveys are carried out in statute miles all over the British Empire, and also the circumstance that this measure was used to determine the distance between the points or pillars (J and M), situated on the south bank of the River Swakop, since according to Mr. Wrey's map they are 15·35 kilom. apart when they ought to be 18·53 kilom. if the 10 miles which ought to separate them were taken as maritime or nautical miles;

That, having regard to the terms of the Anglo-German Agreement of the 1st July, 1890, according to which the demarcation of the southern frontier of the territory of Walfisch Bay is reserved for arbitration, since point (B) constitutes the starting point of this frontier and forms an integral part of it, the German Government submit to the decision of the arbitrator the question whether the position of point (B) with regard to point (A) should be fixed by statute miles or nautical miles; and, finally,

That both with regard to the question, the merits of which have been discussed, and in general terms, the German Government consider the demarcation carried out by Mr. Wrey without the co-operation of a German representative as null and ineffective from the point of view of international law; for when the said demarcation was carried out the territory of Walfisch Bay was surrounded on the land side not by the territory of nomad tribes, as in 1878, but by that of a European Power, and the boundary was consequently an international one and could not be fixed by an administrative act of one of the interested States without it being necessary for the two limitrophe Powers to proceed in agreement;

XXX. Whereas the German Government, on the strength of the preceding considerations, propose to the arbitrator in section (E) of their memorandum:

1. That the survey and demarcation of the southern frontier of the territory of Walfisch Bay carried out by Mr. Wrey in 1888 by the instructions of the Government of Cape Colony in a unilateral manner without the co-operation of a representative of the German Government should be declared null and of no effect;

2. That the southern boundary of the territory should be fixed in the following way:

The boundary should start at a point on the coast of the Atlantic Ocean 15 statute miles (1,609 metres) south of a boundary pillar placed at Pelican Point and should run thence in a straight line towards the most southerly point of the western side of the present property of the

Scheppmansdorf Mission, which property is in this way included in British territory, since its southern and eastern boundaries coincide with those of the said territory; from the extreme north of the eastern side of the mission's farm or property, the boundary of the territory should run in a straight line across the valley of the Kuisip above the Namib plateau towards Rooikop, or point (H) on Mr. Wrey's map;

3. That the portion of the boundary of Walfisch Bay mentioned in paragraph 2 should be surveyed afresh conjointly by both parties and provided with durable pillars by experts authorised by the Powers interested and within the space of time fixed by the award;

XXXI. Whereas various documents of British origin are inserted in the appendix to the German memorandum and some of them are criticised, and whereas it is unnecessary to mention their contents or the arguments used to refute them, since in the statement of the arguments and replies presented by the high parties interested in the matter, during the course of the arbitral proceedings, both have or should have proper influence on the decision of the question pending;

XXXII. Whereas the British memorandum, after duly stating the history of the question, advances the following arguments, divided into thirteen groups or sections numbered correlatively, in order to demonstrate the correctness of the demarcation carried out by Mr. Wrey:

(*a.*) That the question at issue refers above all to the interpretation of the phrase „including the plateau," used in the Annexation Proclamation and the documents confirming it, which phrase indicates the desire of the author of the proclamation to include an area of value which otherwise would remain outside the boundary laid down, or, in other words, the desire that the line traced from Scheppmansdorf to Rooibank (Rooikop) should be diverted to include something which would not be included by a straight line between the two points, and which, as it could not be defined exactly on that occasion for lack of maps and exact information, was indicated by the term „plateau";

(*b.*) That it is not claimed by Germany that the phrase „including the plateau" lacked all meaning, but that her contention is that by this phrase Captain Dyer alluded to the fact that a straight line from Scheppmansdorf to Rooibank (Rooikop) did include in the annexed territory a plateau, *i.e.*, a portion of the extensive and elevated desert of the Namib; but that against this interpretation it should be observed that the small portion of the Namib included by such a line would be a plateau separated from the large tract of desert of which it forms a part, and an insignificant part, whilst if by plateau is understood the whole or larger part of the Namib, the line in question would cut it and not include it, so that the phrase employed thus becomes inappropriate, nor is the fact explained of special mention being made of ground without any value, which, in the first case, in addition, was already clearly within the boundaries laid down;

(*c.*) That the hypothesis advanced by Germany of the Namib being the plateau referred to in the Proclamation of Annexation is in open discord, given the extreme aridness and absolute valuelessness of that desert, with the intentions shown by Captain Dyer in 1878, and in later documents, according to which the object of the annexation was to provide the annexed territory with drinkable water and pasture;

(*d.*) That Captain Dyer's report, dated the 12[th] March, 1878, and his letters of the 14[th] September, 1887, and the 24[th] April, 1889, extracts of which are given in recitals III, XVII, and XIX of this award, prove that his intention was to include in the annexed territory the ground now in dispute, and that the use of the phrase „including the plateau" was dictated by this intention; and further that this was proved by the researches carried out in 1885 by Mr. Wrey, who, as he says in his report of the 31[st] August, 1889, cited in recital XII, knew, by the evidence of Mr. Ryden, a witness of the annexation, and by that of other persons who were present at it or remembered it, that Commander Dyer, in view of the statements made to him about the value as pasture-land of the area under discussion, had included it in the territory annexed;

(*e.*) That the appearance of Rooibank makes it a striking object in the midst of the desolation which surrounds it, since, although it is lower than the Namib desert situated to the north and the sand-hills to the south, it appears to dominate both without its being noticeable that on rare occasions it is converted into a river-bed; that whoever rides over the desert in the neighbourhood of Rooibank sees at the level of his eyes the tops of the trees growing on the disputed plain; that to Captain Dyer, on his journey across the desert on his way to the mission station, this ground must have appeared, in comparison with its arid surroundings, isolated and dominating; that if it is argued that an essential attribute of a plateau is that it should present a dominating aspect with regard to its surroundings, it can be held that this condition is fulfilled by the Rooibank; that although the application of the word „plain" to the area under discussion would have been more in accordance with the ordinary use of language, it cannot be pretended, in view of what has been said, that the use of the word „plateau" by Captain Dyer implies a grammatical or etymological impropriety, since that word is correctly applicable to an extent of land more or less isolated which presents the appearance of flatness in comparison with its surroundings; that the idea of flatness is always connected with that of „plateau," whilst height is an ordinary, but not essential, attribute of the term; and, finally, that when Captain Dyer described as a plateau the plain of Rooibank, which did not show any sign of the passage of a river, which was conspicuous for its fertility, and was 300 feet above the level of the sea, he was clearly influenced by the fact that the residents on the coast from whom he received the information which guided him called this land a plateau;

(*f.*) That the Dutch word „plaat," which may have been used amongst the inhabitants of the Bay to designate the Rooibank, and a word which

does not carry with it the idea of height, probably led to the employment of the word „plateau,“ which is its nearest equivalent in English; that before the acquisition by Germany of territorial rights in South-West Africa the area to-day in dispute was called „the plateau of Rooibank“ in British official documents, as is proved by a despatch of the 14th January, 1882, in which the Governor of the Cape of Good Hope, describing the territory of Walfisch Bay, says of it that for the space of 15 miles reckoned from the sea it is nothing but a desert formed by sand flats and dunes „until you arrive at the plateau of Rooibank“; and that an analogous proof of earlier date than the beginning of the boundary question is afforded by the reply of the magistrate, Mr. Simpson, on the 16th April, 1885, who, when questioned before the „Angra Pequeña and West Coast Claims Commission,“ called the area which extends from the mission station up to and including Ururas „the whole of the plateau“;

(*g.*) That the phrase employed by Captain Dyer in his report of the 12th March, 1878, „the plateau of Rooibank and Scheppmansdorf to the south-east,“ does not imply that the plateau is situated north-west of Scheppmansdorf, but that it alludes to the fact that both places lie in the south-east part of the annexed territory; because it is notorious that, at the north-west of Scheppmansdorf, there is neither to be found the plateau of Rooibank nor anything the physical aspect of which corresponds with the description of the oasis annexed by Captain Dyer;

(*h.*) That there is no doubt that in order to solve the question at issue and in particular to know the intention with which the author of the proclamation employed the words „including the plateau“, the best witness must be Captain Dyer himself. His evidence, as has been seen, not only was entirely in agreement with the official report on the annexation, but also proved the correctness of the demarcation made by Mr. Wrey and is in its turn corroborated by the physical aspect of the area in dispute and of the surrounding country, as well as by the sworn declarations of different people, declarations which may be summed up in the following form:

(i.) Daniel Exma Dixon, 60 years of age, declares that he has known the territory of Walfisch Bay perfectly since 1861; that he was there on the date of the annexation and was present when Captain Dyer was urged to annex grazing land beyond the mission station; that on the following day he conducted Dyer and the officers who accompanied him to Rooibank and showed the former from the top of a sand-hill the grazing lands beyond the mission station towards Ururas and indicated the position of that point; that Rooibank includes the whole bed of the river from the mission station up to Ururas and that Dyer said that the boundary would run past that place; that a later effort to induce Dyer to extend the demarcation was unsuccessful; that between the mission station and Walfisch Bay there are no pastures properly so called, so that if Rooibank were excluded from the territory the colony would have none; and, finally, as the water to the west of the mission station is brackish it is not as good as that found on the Ururas side;

(ii.) Hendrik Petros, an old native, states that he was present at a conversation between Dyer and the deceased Piet Haibib, the chief of the tribe of the Topnaars, in whose territory Rooibank was situated, and that he heard Haibib agree to the annexation being extended as far as Ururas and Dyer declare that British territory would be extended to Ururas;

(iii.) Willem, a native of about 65 years of age, states that he was present at Rooibank with Dixon and others at the time of Dyer's visit (Dyer in the course of his journey reached Zwartbank, the witness believed) and that he heard it agreed between Dyer and Piet Haibib that British territory should be extended to Ururas;

(iv.) John Engelbrecht, a native about 75 years old, states that he was present at the interview between Dyer and Haibib, and heard the latter consent to the cession of his territory as far as Ururas;

(v.) Jan Sarop, an old native, states that a few days after the annexation he was informed by his chief, Piet Haïbib, that the Englishman had annexed the territory as far as Ururas, that there was not sufficient pasture to the west of the mission station, and that both he and his father had always used the pasture at Rooibank;

(vi.) Old Jim, *alias* Zacharias, a native of from 70 to 75 years old, asserts that two weeks after the annexation he was informed by Piet Haïbib that it extended as far as Ururas, and adds that he recollects that a certain Outate had been arrested in Ururas by a British police officer;

(*i.*) That at the time of the annexation Captain Dyer had no map of the interior, and could not define with accuracy particular spots; that amongst primitive tribes of nomad tendencies like those which inhabit South-West Africa, the names of places do not possess a fixed and definite meaning which is characteristic of European names; that Rooibank (a Dutch translation of the Hottentot word „Awahaus") is the term long employed to indicate the plain of the Kuisip between the mission station and Ururas; that Scheppmansdorf was originally the name given by the missionaries to the mission station founded in 1842 in the Rooïbank area, but that it applied afterwards to the whole area which was considered and made use of as the property and grazing commonage of the natives living in the mission station or in its neighbourhood; that the evidence given in 1885 before the mixed commission shows that the names Rooibank and Scheppmansdorf are in actual practice the same, and are used indiscriminately or with very little distinction to designate the tract of country extending between the mission station and Ururas; but this last word, as Mr. Wrey stated, „is merely the native name given to a large watering place for the cattle grazing between Ururas and Rooibank," a name which does not express precise limits, and is applied by the natives to a certain part of the Scheppmansdorf lands; that the German Consul-General, Dr. Bieber, in his communication of the 8th June, 1886, stated that Awahaus, Rooibank, and Scheppmansdorf are names of the same place; that the word „Rooibank" can therefore be substituted for the word „Scheppmansdorf" wherever it

appears in the Annexation Proclamation, and Commander Dyer's demarcation can be amended accordingly, as was proposed by the mixed commission of 1885, whose joint report is referred to in recital VIII of this award; that as Rooibank or Scheppmansdorf forms an extensive area, it is impossible to fix a point within it for the termination of the line under discussion, but that the difficulty disappears thanks to the words „including the plateau“ if by plateau be understood a definite area situated in the eastern or southern extremity of the former; and, finally, that the German member of the Philips-Goering Commission of 1889 agreed that if the plateau of Dyer's proclamation were the area now in dispute the boundary line should run as far as Ururas;

(*j.*) That the natives who inhabit Rooibank live and always have lived in the vicinity of the mission station, and from time immemorial have made use of the area under discussion to provide themselves with the means of subsistence, to cultivate patches of ground, and to have at their disposal pasture, water, and fuel; that it is beyond doubt that all this extent of territory has been, in fact, an indispensable adjunct to a British village; that the natives have gardens in the tract in question, and that their cattle is pastured and watered ordinarily southwards as far as Ururas; that it is highly improbable that Commander Dyer failed to include in the boundary of the annexed territory and to place under a single jurisdiction the whole of the lands in which the natives of the country were interested; that Commander Dyer, advised as he was by persons acquainted with the locality, had the intention, as he says in his letter of the 14th September, 1887, of including in the annexation the native pasture-lands; and that according to his letter of the 24th April, 1889, he understood that the plateau annexed belonged to and formed part of Scheppmansdorf;

(*k.*) That to the west of the mission station there is no adequate pasture-land or fuel supply, so that Dyer's intention „to annex an oasis thickly covered with grass and scrub and well watered“ could not be carried out by drawing the boundary line in the position claimed by the German Government; but the presence of the tree called the „anna,“ whose pods provide excellent food for cattle, makes of Rooibank a pasture-land of great value whilst on the opposite or western side those trees do not exist, nor does the vegetation required for keeping cattle; that the water found in the river-bed between the mission station and the coast is brackish, and lacks the good qualities of Rooibank water; that, in addition to Mr. Wrey's report and the evidence of Mr. Dixon and Jan Sarop, mentioned above, as to the importance of the pastures situated to the east of the mission station and of the relative worthlessness of the land on the opposite side, these statements are corroborated by Dr. T. C. Sinclair and Mr. George Gale, the latter being the owner of herds grazing at Rooibank. Both are very well acquainted with the territory in dispute, and their respective assertions lend force to the other arguments employed in this memorandum;

And, finally, that to the west of the mission station the bed of the Kuisip no longer offers that definite aspect which distinguishes it from the surrounding territory, an aspect which is characteristic of Rooibank, and justifies the application to it of the term „plateau“;

(*l.*) That Great Britain exercised full jurisdiction over the territory in dispute before the acquisition by Germany of any territorial interest in South-West Africa, and also between the date of such acquisition and the commencement of the present controversy; that before the controversy commenced Great Britain protected the natives resident in Rooibank during the tribal wars carried on in Damaraland, and took the responsibility of preventing by constant care and vigilance their participation in such conflicts; that on the 16th April, 1885, Mr. Simpson, the resident magistrate at Walfisch Bay, stated before the Angra Pequeña and West Coast Claims Commission the following: „It has always been understood that the Rooibank commonage extends to Ururas, and the people who live there have always made use of it. A certain number of Bastards have gardens there, given them by Mr. Palgrave and by my predecessor, and the said Bastards have been wont, when the grass was finished at Rooibank, to send their cattle along the river to Ururas“; that, according to the criminal register of the resident magistrate at Walfisch Bay, he exercised jurisdiction at Ururas in 1882, and punished by flogging and imprisonment a person convicted of having stolen a sheep at that place; and that as a new proof of the exercise of sovereignty at Ururas may be cited the arrest there by a British officer in 1884 of one „Outate,“ an incident mentioned in the statement of Old Jim, *alias* Zacharias, already quoted;

(*m.*) That the British settlement of Walfisch Bay was acquired and its limits defined before any civilised nation thought of annexing the adjacent territory, for which reason it did not appear urgent to specify the boundary exactly until the neighbouring country was placed under the sovereignty of Germany; that in 1884 the British Government applied, without being asked, the doctrine of the „hinterland“ in favour of Germany, abstaining, in spite of favourable circumstances and pressure brought to bear, from occupying the land in the interior bordering on German territory, which at that time comprised a zone of 20 miles only, reckoned from the coast line; and that therefore a reciprocal recognition of the said doctrine can be advanced against the present claim of the German Government, especially taking into account that this claim disputes an area actually annexed and effectively occupied by Great Britain before the existence of any German territorial right;

XXXIII. Whereas the British memorandum, the arguments in which are summed up in the preceding clauses, contains as appendices various documents of different descriptions supporting or amplifying the preceding statements without advancing any fact or argument of importance, as far as the decision of the question at issue is concerned, which in substance has not been already stated;

XXXIV. Whereas, on the 30th July, 1910, within the space fixed by article 3 of the Declaration of Berlin of the 30th January, 1909, the replies in which each of the high parties answers the memorandum previously presented by the other were handed to the Minister of State of His Catholic Majesty by the representatives of Germany and Great Britain, the German reply being accompanied by annexes containing authentic copies of the documents inserted in it and two copies of Dr. Stapff's map of the lower valley of the Kuisip, all of which documents were without delay officially transmitted to the arbitrator;

XXXV. Whereas in the German reply the following considerations or facts are advanced which are not contained in the preceding recitals:

1. That the argument which runs through the whole of the British memorandum that the territory under discussion ought to belong to Walfisch Bay because of its value to this possession is an argument which, apart from the exaggeration involved by the supposition that the said territory is the only useful portion of the colony, would authorise the German Government to claim it on account of its importance for the service or development of the police station at Ururas;

2. That in the decision of the present dispute the statements of Captain Dyer contained in the Annexation Proclamation and in his report of the same date should alone be taken into account, but not what he said in much later statements;

3. That neither the Governor nor inhabitants of Walfisch Bay ever made use of the territory under discussion for grazing sheep or working oxen;

4. That the word „Rooibank" which the mixed commission of 1885 proposed should be added to that of „Scheppmansdorf" in the text of Captain Dyer's proclamation can only be admitted as explanatory and supplemental, although the authority of the proposal is recognised, but not as a substitute for the other word, whose greater precision does not allow the attribution to it of the different meanings („commonage or pasture," „river-bed," „valley," „oasis," „patch of ground," and „plateau"), which the British memorandum attributes to the term „Rooibank";

5. That the use of the phrase „including the plateau" found in the proclamation of 1878 is not only explained on the grounds stated at the proper moment in the German memorandum, but is also explained because at the time of annexation there were no maps of the territory;

6. That the Namib is not absolutely worthless as is claimed by England, but, as the British commissioner, Colonel Philips, remarked in his report of the 23rd Januar, 1889, „it has the advantage, owing to the hardness of its surface, that it can be crossed more easily and rapidly than the river plain";

7. That the fact that an area presents notable or salient features in comparison with its surroundings or as contrasted with them, as may happen in the case of Rooibank, does not justify its description as a „plateau";

8. That the Dutch phrase „de plaat“ supposed to be used by the inhabitants of Walfisch Bay to designate the valley of the river between Scheppmansdorf and Ururas, and which it is thought probable that Captain Dyer translated by the word „plateau,“ is a phrase whose use in this particular sense is denied, according to their recent statements or reports, by Hugo Köhler, Administrator at Swakopmund, George Evensen, the District Commissioner Von Frankenberg, and the missionary Johannes Boehm, all of them knowing the Bay well and also the adjacent territory and its inhabitants;

9. That when Captain Dyer speaks in his report explaining the annexation of „an oasis thickly covered with grass and scrub“ it is not because he had orders or the intention to annex it, but because the words quoted are a mere supplementary description and at the same time a defence of his exceeding the proper boundaries when he settled the extent of the annexed territory;

10. That Rooibank is too far from Walfisch Bay for people living at the Bay to go there for drinking water, and that the brackish water found to the west of Scheppmansdorf is useful and beneficial for cattle;

11. That the tree from which Jan Jonker hanged the Berg Damara was situated in the middle of the bed of the Kuisip and within the territory in dispute to-day, and it is impossible that it could have stood at the place marked with a red cross on the map facing p. 74 of the British memorandum, since in the said place there are only bare sand-hills without trees or scrub of any kind, all of which is expressly attested by the farmer George Evensen in a new statement made on the 9th March, 1910;

12. That the evidence of the Topnaar Hottentots, made use of by Great Britain, deserves no credit not only on account of their natural inclination to deviate from the truth but also on account of the effect produced upon them by appearing before the authorities and of their ignorance of what an oath means; this statement being confirmed indirectly by the qualities attributed to the Topnaars by Mr. Wrey in his report and directly by the evidence of the employé of the Mining Syndicate of South-West Africa, Eugene von Broen, in a recent statement;

13. That, according to the declaration made on the 22nd March, 1910, by the German sergeant of police Carl Leis (ordered, as he says, to ascertain whether any of the natives living on the bank of the Kuisip could make a statement with regard to the taking of possession of the territory), approximately one month earlier the missionary Schaïble asked the Hottentot Gottlieb, called also Jan Sarop, whether he was at Rooibank at the time of the annexation and he answered that at that time he was at Walfisch Bay and added, in reply to fresh questions, that, with the exception of Piet Haibib, the only person who was living ordinarily at Rooibank was a Hottentot now deceased;

14. That the evidence of Von Broen, dated the 21st March, 1910, is in agreement with the evidence of Carl Leis. Von Broen states that

he had heard from the lips of a native that all the natives of the country who were present at the annexation were dead, believing that this was said after the death of Piet Haibib „about a year ago";

15. That, in view of this, the evidence of the old Topnaar Hottentots Hendrik Petros, Willem (an old native policeman in receipt of a pension from the Cape Government), and John Engelbrecht, inserted in the British memorandum, cannot be accepted, at least in the sense that the witnesses were present at Captain Dyer's visit to Rooibank;

16. That the Hottentot Willem in his declaration also falls into the error of supposing that Captain Dyer and his companions were in Ururas and Zwartbank in 1878, when they did not go beyond Scheppmansdorf;

17. That the credibility of the witness Mr. Koch, which was incidentally questioned in the British memorandum on the ground of statements made by Mr. Shippard, cannot be impugned, as it was, out of mere personal considerations, above all in the case of an individual who, during the long years in which he was successively a landing agent and in the service of the Rhenish Missionary Society and of the German Government in Swakopmund, did nothing to justify in the least the bitter criticism of Mr. Shippard;

18. That, in contradistinction to what was done in the British memorandum in the matter of Ludwig Koch's evidence, care has been taken in the German memorandum not to set up a similar precedent, although an unfavourable opinion could have been expressed on the subject of the witness Daniel Dixon, whose first statement, made on the 16th March, 1892, and examined at length in the appendix to the German memorandum, raises, as therein stated, such questions that value of any kind can hardly be attached to it;

19. That communication between Sandwichhafen and Scheppmansdorf for the transport of goods is not only possible (in spite of what is said by Dr. Sinclair in his report inserted at the end of the British memorandum), but is proved by the fact that this route was covered in a few hours by German troops, a fact mentioned by Von Broen in his report of the 21st March, 1910;

20. That the bed of the Kuisip between Scheppmansdorf and Ururas never was a plateau as is stated in Dr. Sinclair's report referred to, and such a story was refuted long ago by the investigations of the eminent geologist, Dr. Stapff, published, as a commentary on the map of the lower valley of the Kuisip, in the copy annexed to the present reply;

XXXVI. Whereas in the reply of the British Government the following facts and arguments are added to those contained in their memorandum:

1. That the letter of the 12th August, 1885, signed by Dr. Bieber and Mr. Shippard, and cited in recital VIII, proves, by saying that „the eastern boundary marked on Dr. Theophilus Hahn's map published in 1879" is incorrect, that the German commissioner of that time thought the frontier which the German Government now claim, that is to say,

the frontier formed by a straight line from the mission station to the Swakop, erroneous;

2. That Mr. Simpson's statement cited in the German memorandum, that he „had crossed from Rooibank to the Swakop River by the plateau," does not necessarily signify that he meant the Namib by „plateau," but that it may refer to the fact of his having crossed in this journey the river plain, starting from the mission station; that, however, in any case it is undeniable that in the same circumstances in which Mr. Simpson made the statement alluded to, he also asserted, as it was stated in the proper place, that „the whole of the plateau" contains or includes Ururas, by which name he designated the territory in dispute to-day;

3. Nor does Sir Hercules Robinson's letter referred to in recital XXVI, in which the desire is expressed that the boundaries of the „plateau between Scheppmansdorf and Rooikop" should be defined precisely, justify the contention that that word referred to the Namib, but, on the contrary, shows that the writer's mind was dominated by the idea that the plateau alluded to, little known then on account of the lack of maps, was a definite area, susceptible of demarcation, conditions which do not apply to the part of the Namib situated to the west of the Scheppmansdorf-Rooikop line; and it ought to be added to all this that Sir H. Robinson's despatch of the 14th January, 1882, cited in paragraph *(f)* of recital XXXII, makes use of the phrase „plateau of Rooibank" to designate the territory now in dispute;

4. That when Captain Dyer was recently consulted with reference to the meaning attributed to his former statements in the German memorandum, he declared on the 9th June, 1910, that in the year 1878 he proceeded from Walfisch Bay to Rooibank, where he was told he would find the pasture and water necessary for the use of the station; that he made the journey in a bullock-wagon driven by Dixon and arrived at the mission station on a fine, clear day, which made it possible to see at a considerable distance; that Mr. Ryden, who accompanied him, showed him from a sand-hill in a south-easterly direction a wide, flat space of some miles in extent where there was water, and that his intention in using the term „plateau" was to include that space within the annexed territory; that Dixon made some remarks to him about Zwartbank, but that he did not pay much attention to them, because they were vague and contradictory; that he does not recollect any allusion to Ururas, nor does any such name appear on the map of the coast; that in fixing the boundary he was entirely guided with regard to distances by the Admiralty chart, which was drawn to a scale of nautical miles; and that all the colonists appeared entirely satisfied with the demarcation, and they showed themselves so expressly a year afterwards when he made a new visit to Walfisch Bay;

5. That on the same date as the former statement Mr. Sandys, the official paymaster of His Majesty's ship „Industry" and the companion of Captain Dyer in his visit to Rooibank, corroborated all the details testified to by the latter;

6. That the German observations contained in recital XXVI, according to which it is curious and remarkable that Commander Dyer, in his second letter or communication of the 14th September, 1889, did not cite Ururas, if he understood that the grazing flats, included in the annexed territory, terminated there, and say that the plateau was situated „above Rooibank,“ are observations which are answered by remarking that Ururas was not marked on the map used by Dyer for the annexation, and that the bed of the Kuisip rises continually and gradually from Walfisch Bay towards the interior;

7. That the hypothesis or argument mentioned in the last paragraph of recital XXVI that Captain Dyer used the phrase „including the plateau“ to justify his having delimited territory in excess of his instructions is not only not in accord with the evidence given by him and fails sufficiently to explain the phrase quoted, but disregards the extent of the discretional powers conferred on the official entrusted with the annexation, and which he had perforce to exercise by himself owing to the absence of Mr. Palgrave;

8. That the evidence of the missionary Boehm cited in the German memorandum to prove that the bed of the Kuisip, to the east of the mission station, is barren except for trees, and does not contain the grass, pastures, and water to which Captain Dyer alluded, disregards the importance of the tree called the „anna“ as regards the feeding of cattle, and is contradicted besides by statements by Mr. Simpson, Surveyor Wrey, Captain Dyer, Mr. Dixon, Jan Sarop, Dr. Sinclair, and George Gale, to be found in their proper places in the preceding recitals;

9. That the invitation given to the natives to attend the ceremony of annexation is a proof that care was taken of their interests, and therefore of the stretch of pasture-land which they used for their cattle, which stretch prolonged to Ururas is not excessive, after all, even for the needs of the white population resident at Walfisch Bay; that the Topnaars although partly nomad, have always formed, as it appears from the evidence already cited, a native community in the neighbourhood of the mission station, which was established there precisely for this reason; and that there does not exist the slightest proof that, as is insinuated by Germany, the satisfaction of the natives of the country at the annexation was stimulated by alcohol, for this satisfaction was testified to by Captain Dyer and corroborated by other evidence produced in the British memorandum;

10. That against the German statements that the extent of the place called Rooibank never can be determined, because it depends on individual opinions, and that with this word Captain Dyer's proclamation does not designate a place but a physical feature, such as a mountain or rock, two facts are to be invoked, the firm opinion of the natives, who consider that their pastures extend to Ururas, and the South African custom of deriving the name of extensive areas from some natural feature;

11. That the Admiralty charts cited in the German memorandum, as is stated in recital XXVIII, to prove that until the year 1885 the

British authorities thought that the district now under discussion was outside the territory of Walfisch Bay did not show exact but only approximate boundaries, as is expressly stated on them, because it was necessary to wait until they could be fixed by an inspection of the plateau, as Captain Dyer, for lack of a map of the interior, had neither been able to fix them precisely nor had indicated them on the map which he used;

12. That the argument in the German memorandum immediately following the preceding one, and based on the contract of the 4th August, 1883, with regard to the concession of mining rights, is to be met with this reply: That the term Rooibank is the name of an extensive tract of land which reaches to Ururas; that the act of the British magistrate in legalising the deed does not indicate his agreement with its contents; that there is nothing in the agreement to show that the contracting parties, Messrs. Wilmer and Evensen, failed to understand, as Mr. Simpson, the magistrate did, that Rooibank extended to Ururas, and that both places were situated within the British boundaries; that, on the contrary, it is proved that the said gentlemen admitted these facts, since in 1885, during Mr. Wrey's visit of inspection, they petitioned the Cape Government for two lots of territory in Rooibank and another lot in Ururas; that Mr. Wilmer understood the territory of Walfisch Bay to continue to Ururas, as Mr. Wrey makes it clear in his affidavit of the 25th June, 1910; and, finally, that the circumstance that the mining concession, alluded to, was outside Rooibank, and bounded by the south bank of the Kuisip, is in no way opposed to the claims of Great Britain;

13. That the fact of goods being transported from Sandwich Harbour to Damaraland by the back of the church at Scheppmansdorf and of their being stored in its vicinity without paying duty, cited in the German memorandum as a proof that the British authorities did not consider formerly that the district now in dispute formed part of the territory of Walfisch Bay, are facts as to which the following observations must be made: That it was only during the short period between the 17th August, 1884, and the 13th August, 1885, that customs duties were levied at Walfisch Bay, and that, therefore, there was no object in avoiding their payment; that it is possible that during this time some contraband trade may have been carried on in an extreme corner of the territory at a considerable distance from the place where the authorities resided and without the magistrate being able to prevent it owing to the smallness of the police force at his disposal, but that in any case the existence of such a trade would only prove that the value of the goods carried was too insignificant to justify the establishment of a custom-house on the Kuisip, a consideration corroborated by the evidence of the missionary Boehm mentioned in recital XXVIII, in which it is stated that the „importation of goods could not be considerable and lasted besides only a short time, because the custom-house at Walfisch Bay produced so little that it was not sufficient to maintain one functionary"; that, on the other hand, the lack of precise boundaries could make Mr. Simpson doubtful

whether the store or depôt of Messrs. Wilmer and Evensen, situated, according to a sketch shown by the latter, to the south of the mission buildings, was or was not within British territory, since a comparison between the said sketch and Mr. Wrey's plan shows that the place in which Mr. Evensen lived in 1885 was on the boundary-line (C—D) near a place where the valley of the Kuisip cutting that line forms an extensive „kloof“ with trees and other vegetation to which the word „corner“ („eck“), used in Mr. Sichel's declaration, may refer; and, finally, that the German statement that Messrs. Wilmer and Evensen conveyed their goods, before Walfisch Bay was declared an open port, to a depôt situated 1,600 metres to the east of the mission station (that is to say, within the territory now in dispute) is inexact, for it appears from the evidence of Mr. Evensen himself that his residence was transferred to the place the position of which concides with that of the depôt referred to towards the year 1886, a time when the customs had already been suppressed;

14. That the incident of the murder committed in the month of March 1885 by Jan Jonker, used by Germany to maintain that the place where the victim was hanged was within the district now in dispute in spite of Mr. Simpson's recognition that it was outside British territory, rests on the totally unfounded hypothesis that there are no trees in the Kuisip valley outside the lines laid down as the boundary by Mr. Wrey; that the British Government maintain against this hypothesis, with the authority of Mr. Simpson, that the Berg Damara was hanged by Jan Jonker from a tree situated outside the boundary mark (C), 600 yards from the mission station; that the existence of trees in this place has been proved in the preceding paragraph of this recital; and that Mr. Simpson's statements are confirmed by Mr. Evensen's evidence, cited in the German memorandum, which asserts that the tree from which the body of the man was hanging stood *at some* 200 *metres to south-west of the witness's house,* which was situated then, as is also noticed in the preceding paragraph, on the boundary line uniting the pillars (C) and (D);

15. That as the uninterrupted claim of England to the bed of the Kuisip as far as Ururas and the constant exercise of sovereignty over this territory is established in the British memorandum the statements adduced in section (C) of the German memorandum are rebutted, most of which statements, on the other hand, although based on sufficient evidence, would only prove that Mr. Simpson was ignorant of the exact position of the boundaries or misunderstood the Proclamation of Annexation, without its being possible in any case for the case of Great Britain to be prejudiced thereby;

16. That the evidence of the missionary Boehm, in which he refers to the circumstances of the annexation in 1878, is merely incorrect or hearsay, because the witness was not transferred to Walfisch Bay till 1883;

17. That it is impossible to rely on the accuracy of the declaration of the trader Sichel as to the position of Messrs. Wilmer and Evensen's store, which at the moment to which the witness refers was situated on

the boundary line half-way between the pillars (C) and (D); and that, on the other hand, there is an indication that Mr. Sichel himself admitted the extension of British territory to Ururas by the fact that the firm Martens and Sichel, in which he was a partner, asked the Government of the Cape through the resident magistrate for three lots, two of them in Rooibank, and the third in Ururas, which is bounded on one of its sides by the line (F—G) in Mr. Wrey's plan;

18. That a great part of the evidence of Dr. Belck is also hearsay or rumour; that, with regard to the statement of this witness as to the position of Fredericksdam and the boundary post or beacon which was ordered to be placed at this point, it is to be noted that the said beacon was afterwards pulled down, and that the German Colonial Company, after having formulated a protest, recognised in a letter dated the 29th January, 1887, addressed to Prince Bismarck, and officially transmitted by him to the British Government, that he ought to withdraw the complaint against „the removal of the beacon indicating the German frontier which had been put up at Fredericksdam in accordance with data supplied by Dr. Belck, because more exact data showed that the said place is in fact situated in British territory"; that such a statement prevented further discussion as to the position of Fredericksdam with regard to the boundary, and any difficulty from arising as to the correctness of that part of the southern frontier of Walfisch Bay, until the Commissioner Von Frankenberg raised the question again in 1904; and, finally, that in spite of the private character which Dr. Belck ascribed to the boundary beacon mentioned above, it is very clear that the German Colonial Company considered it as a frontier mark or sign;

19. That the fact that the policeman referred to by Dr. Belck at the end of his declaration was not pursued or arrested proves nothing, since there is no evidence that the resident magistrate knew his whereabouts or desired to compel him to continue his service after his desertion;

20. That the part of Mr. Evensen's declaration referring to Captain Dyer's intention is based solely on hearsay, and that his partner, Mr. Wilmer, thought differently about the matter, according to Mr. Wrey's affidavit of the 25th June, 1910, in which he says that Mr. Wilmer considered the evidence of the natives who lived at the time of the annexation to be in conformity with the opinion firmly held relative to Captain Dyer's action, the evidence being that the water and the pastures in the area extending between Rooibank and Ururas were unreliable, that the whole area is run over by their cattle, belongs to their lands, and is subject to the common rights of their tribe;

21. That the origin of the boundary question cannot be ascribed to a supposed confusion on Mr. Shippard's part between the names Awahaus and Ururas, because the assertion is based on an unofficial suggestion, written on the 1st September, 1886, on the back of a communication or letter, and Mr. Shippard, in a report of the 30th of the same month and year, proves most completely that he had not fallen into the error or

confusion supposed, because he defines clearly the terms „Awahaus," „Rooibank," and „Ururas"; to all of which it is necessary to add that the British Government have never founded any argument on the hypothesis of Ururas and Awahaus being identical;

22. That according to Captain Dyer's statement, mentioned in section 4 of this recital, he used nautical miles in the settlement of the boundaries of the territory; that Surveyor Wrey understood this to be the case; and that point (J) on the northern frontier was fixed on Nuberoff Kop on account of the fact that this hill forms a natural eminence situated more or less 10 miles from the mouth of the Swakop, and that it was believed that Captain Dyer had referred to it, as Mr. Wrey says in his sworn declaration of the 25th June, 1910, and as Mr. Simpson equally declared before the mixed commission of 1885, observing also that the point chosen was reckoned to be a litte less than 10 miles from the coast;

23. That, apart from the indisputable fact that Captain Dyer referred to nautical miles, as it was to be expected, in his description of the annexed territory, the British Government do not admit the existence of any question other than that relative to the frontier between Scheppmansdorf and Rooikop, including the plateau; because this was the point in dispute at the date of the Anglo-German Agreement of 1890, and it would involve a departure from the spirit of this Agreement to import into the controversy new claims like those formulated by the German Commissioner Von Frankenberg in 1904 and rebutted immediately by the British Commissioner, Mr. Cleverly, claims which were not authorised then by the German Government, and are raised afresh now after thirty years of continuous and effective occupation on the part of Great Britain when it had been always understood and recognised since 1885 that the interpretation of the phrase „including the plateau" was the only matter in dispute, and when the correctness of the British frontier at Fredericksdam had been admitted, as stated in section 18 of this recital;

24. That the thesis that the demarcation of the territory of Walfisch Bay carried out in 1885 ought to have been made jointly by the German and British Governments, having regard to the contiguity of their respective possessions, cannot be admitted, because, as that territory was acquired and its boundaries fixed in a general way years before any civilised nation had established itself in the adjacent region, the only thing lacking, at the time of Mr. Wrey's survey, was a precise survey of the boundaries proclaimed previously, with regard to which demarcation the fact that another Power had come to occupy the neighbouring district could not exercise any influence or require any co-operation; and that in so far as the authority of international law can be invoked to decide the present dispute it comes to the support of the British claim, because the civilised nation acquiring territorial rights in a region where another is established must respect in its entirety the position of the latter, and any doubt as to whether it acquired, or wished to acquire, a certain area must be settled in favour of the first occupant;

25. That, in conclusion, the British Government maintain that Mr. Wrey's demarcation represents exactly the boundaries of the territory of which Great Britain took possession on the 12th March, 1878; that Britain has always held this view without any change of opinion, that she has exercised full and uninterrupted sovereignty over the area named from the date of the annexation; that the drawing of the boundaries as proposed and defended by the German Government would deprive the British station of ground used until the Agreement of 1890 and indispensable to the needs of the inhabitants of the Colony; and that the German Government have not succeeded in rebutting the proofs of these contentions adduced by the British Government;

XXXVII. Whereas the arbitrator undertook, the better to understand the question at issue, to make an ocular inspection of the territory in dispute, and whereas he visited the spot towards the end of the year 1910 and at the beginning of 1911, accompanied by the German commissioner, Herr von Frankenberg, and the British commissioner, Mr. Lansdown, and examined for the length of time that he considered necessary the aspect, conditions, and boundary of the district in dispute, asked for and heard the necessary explanations of both Commissioners, and endeavoured as far as possible, in agreement with them, to go over the ground in the direction followed by Captain Dyer in 1878, in order to obtain impressions similar to those obtained by that officer, and to judge of his intentions with the best guarantees of accuracy:

I. Considering that there are two fundamental questions which it is necessary to examine in this award: (1) Whether the southern limit of the territory of Walfisch Bay ends in the proximity of the mission church of Scheppmansdorf, or, on the contrary, whether it should be prolonged to Ururas in accordance with Mr. Wrey's survey; (2) whether this southern boundary should begin at a point 15 nautical miles or 15 statute miles from Pelican Point;

II. Considering that the two questions should be examined separately, having regard to the varied character of the arguments which can be invoked for their solution, and in view of the fact that, as regards the second question, one of the high parties asserts that it was provided for by the Agreement of the 1st July, 1890, and is therefore included in the present controversy, whilst the other denies this;

III. Considering that both questions must be solved in conformity with the principles and positive rules of public international law, and, where they fail, in conformity with the general principles of law, since neither the said Agreement of 1890 nor the supplementary Declaration of Berlin of the 30th January, 1909, in any way authorise the arbitrator to base his decision on other rules, and it is notorious, according to constant theory and practice, that such authority cannot be presumed;

IV. Considering that since, with regard to the first of the questions indicated, both parties recognise that its solution depends on the interpretation placed on the phrase „including the plateau,“ contained in the

Annexation Proclamation of the 12th March, 1878, and later official documents confirming it, it is necessary to determine the interpretation which should be placed on those words, utilising the general principles of law, which are the same as the principles of international law, and according to which it is necessary to consider, in order to determine the intention which inspires an arrangement or act, the grammatical value of the terms used, the consequences which result from understanding them in one sense or the other, and the facts or antecedent circumstances which contribute to explain them;

V. Considering that, in order to attribute to the phrase quoted the value which belongs to it in law, it is necessary in the first place to decide what the Annexation Proclamation or its author, Commander Dyer, understood by the word „plateau," that is to say, whether he understood the high plain of the Namib as is asserted in the German case, or a portion of the valley of the River Kuisip comprised between the houses of the Scheppmansdorf mission and Ururas as is maintained in the British case;

VI. Considering that, even if it is admitted that by „plateau" is ordinarily understood „a high plain," this secondary attribute of „height" is essentially relative, inasmuch as there are places called „plateaux" lying lower than the surrounding country, as is shown by the slightest examination of the use which is made of this word, not only amongst common people, but amongst persons of undoubted competence, who, in geographical descriptions, speak of terraced plateaux, of plateaux dominated by the adjacent mountains, and even in one case of a plateau which a contemporaneous writer says „descends" between two chains of mountains to form the beginning of a river-bed;

VII. Considering that it follows from this that the greater elevation of the plain of the Namib as compared with the adjacent plain of the Kuisip is not in itself a sufficient reason to suppose that Commander Dyer necessarily referred to the former when he spoke of „the plateau" which was to be included in the annexed territory;

VIII. Considering, further, that a sufficient reason for asserting that Commander Dyer alluded to the Namib by the word „plateau" is not afforded by the statement in the Annexation Proclamation that the territory of Walfisch Bay should be bounded „to the east by a line from Scheppmansdorf to Rooibank, *including the plateau*," which only shows that the plateau in question must be included in the territory *by the eastern frontier,* which starts from Scheppmansdorf; because, without denying anything, it is very clear that, even if by „plateau" is understood, not the Namib, but the district comprised between the Scheppmansdorf Mission and Ururas, and it is therefore admitted that the southern frontier should be prolonged to this last point (which is regarded as the end of the Scheppmansdorf pastures), the plateau in question must always be in the south-eastern corner of the annexed territory, and will be included in it not only by

the southern frontier, but also by the eastern, as required by the Annexation Proclamation;

IX. Considering that the phrases used by Mr. Simpson and Sir Hercules Robinson, and cited in the German memorandum to prove that in the year 1885, before the question of the boundary arose, the Namib was called a plateau by those British authorities, are phrases which, besides admitting of a different interpretation, as is shown in the reply of Great Britain, do not set aside the fact, which is amply evidenced, that Mr. Simpson, at the same date, and Sir H. Robinson, in 1882, called the territory now under discussion „a plateau,“ a fact which deprives an argument based on the hypothesis that that word was only used to designate the Namib of all its force;

X. Considering that, although Captain Dyer, in his report explaining the annexation, spoke of „the plateau of Rooibank and Scheppmansdorf to the south-east,“ it does not necessarily follow from these words that Scheppmansdorf is situated to the south-east of the plateau nor the plateau to the north-west of Scheppmansdorf (in which case it would be necessary to understand by „plateau“ the Namib); because, as it is admitted in the German memorandum, the words quoted can be taken also in the sense of merely indicating that Scheppmansdorf is on the south-east of the annexed territory, which neither fixes its position with regard to the plateau nor excludes the possibility of understanding the phrase as an allusion to the fact that both places lie to the south-east of the territory;

XI. Considering that, on the supposition that „the plateau“ is the Namib, it would not be possible to explain what Commander Dyer wrote in his report of the 12[th] March, 1878, viz., that he made „a journey in a bullock-wagon to Rooibank,“ taking with him two officers to accompany him „in the examination of the plateau,“ because, in order to examine the plateau, assuming the Namib was thereby meant, it was not necessary to go to Rooibank, since hours before reaching that point he would have begun to cross „the plateau,“ and could take into consideration its characteristics as far as he considered that they offered any interest from the point of view of the annexation;

XII. Considering that, on the hypothesis that by plateau the Namib was meant, it would be impossible to explain the words used by Commander Dyer in the report mentioned in the preceding consideration, which words immediately followed those quoted in that consideration, *i. e.*, *„this place is an oasis,“* words which must refer to the word „plateau“ which immediately precedes them, since the demonstrative pronoun „this“ can only be properly used in this way, as the use of another pronoun or expression would be grammatically necessary to refer to a word farther from it in the phrase;

XIII. Considering that against this grammatical interpretation it cannot be argued that the word „place“ cannot properly refer to a „plateau,“ and it must be supposed, therefore, that it refers to some other term in

the text quoted; because the word „place“ has a sufficiently wide meaning both in English and other European languages to designate a space, position, or locality of very varied extent and conditions;

XIV. Considering that, without prejudice to examining later the real meaning of the phrase „including the plateau,“ around the interpretation of which a great part of the question at issue revolves, the difficulty is at once noticed of reconciling the use of that phrase with the hypothesis repeatedly advanced that the Namib is the plateau alluded to by Captain Dyer; because if by plateau is to be understood the part of the Namib situated to the west of the Scheppmansdorf—Rooikop line, it is well known that the said line includes that district in the annexed territory, with the result that the phrase becomes absolutely superfluous, and if by plateau is understood the whole Namib in general it is evident that the Scheppmansdorf—Rooikop line *cuts* it and does not *include* it, so that the phrase in question becomes entirely inappropriate;

XV. Considering that if the hypothesis that the word „plateau“ alludes to the Namib in the Annexation Proclamation is discarded, and the hypothesis is examined that the said word refers to a portion of the Kuisip valley, it is impossible to cite against this hypothesis Colonel Philips's statements that this district can be designated in a more satisfactory manner by the term „plain“ than by the term „plateau,“ nor Mr. Wrey's that that term is an erroneous designation as employed in the Annexation Proclamation; because, although such statements imply a criticism of the word used by Commander Dyer, they do not throw doubt on the fact that „plateau“ refers to the bed of the river, nor do they justify the deduction that a mistake impossible in the case of a person of his competence is thereby attributed to the author of the proclamation, since the statements do not prejudice in any way the question whether he used the term „plateau“ of his own initiative or whether he confined himself to respecting or translating another term already used by the inhabitants of the territory;

XVI. Considering that, although it is held to be fully proved that the witnesses Messrs. Köhler, Evensen, Frankenberg, and Boehm, mentioned in recital XXXV, paragraph 8, of this award, never heard the inhabitants of Walfisch Bay use the Dutch phrase „de plaat,“ which is supposed to be the origin of the use of the word „plateau“ as a designation of the territory under discussion, the said witnesses neither assert nor can assert anything of their own knowledge as to whether the phrase „de plaat“ or the term „plateau“ were employed at the time of the annexation in the sense mentioned, since at that time none of them was living in the territory;

XVII. Considering that Mr. Simpson, when he appeared in 1885 before the mixed commission, and Sir Hercules Robinson, in his despatch of the 14th January, 1882—that is to say, before the question of the boundary arose and more than a quarter of a century before the statements of the former witnesses—called the strip of the valley of the Kuisip under discussion a plateau, and that the word does not appear to be taken from

the Annexation Proclamation in either of the two statements, as they are found in the case, and that the possibility is not excluded that its employment was authorised by the general use of language;

XVIII. Considering that there is nothing to justify the contention that Captain Dyer, in his report of the 12th March, 1878, used the word „plateau“ as a description, which he considered exact, of the territory now under discussion, and not as a more or less special name consecrated by custom and which it was his business not to correct but to repeat, since he had not sufficient reason to reject it as absurd;

XIX. Considering that, for the reasons explained, it cannot be asserted that the criticism passed on Mr. Philips and Mr. Wrey with regard to their use of the word „plateau“ as referring to a portion of the Kuisip valley implies the attribution to Mr. Dyer of incompetence and error only admissible on the hypothesis, which has not been proved, that he used the term „plateau“ for the first time in the sense of which we are speaking;

XX. Considering that Captain Dyer's statement in his second report of the 14th September, 1887, that the plateau was situated „above Rooibank,“ cannot be cited against the assumption that the term „plateau“ in the Annexation Proclamation referred to the valley of the Kuisip, because, besides these words being sufficiently explained in later reports of Mr. Dyer which must be considered to have the same weight as evidence as his report in 1887, the statement in this last report is perfectly applicable to the bed of the Kuisip, which rises constantly and gradually towards the interior from the coast and runs on above Rooibank within the zone in dispute, this name being understood in the sense which will be stated and justified later on;

XXI. Considering that, in view of the terms in which Commander Dyer expresses himself in his report of the 12th March, 1878, the importance of which as regards the solution of the question pending, in contrast to what is the case with other later reports, is not disputed by either of the high parties interested in the matter, it is to be understood that, if the natural meaning of the words is not strained and the order in which they appear is attended to, the lack of „fresh water and pasture in Walfisch Bay“ and the necessity of including in the annexation „a place which contained both things“ was the motive which determined his „journey to Rooibank“ in order to examine „the plateau“ which „is an oasis thickly covered with grass with a good water supply, and the nearest available to provide the bay with water and good pasture,“ from which it necessarily follows that a greater or smaller part of the valley of the Kuisip was what Commander Dyer desired to designate and did designate by the word „plateau,“ since within the annexed territory the characteristics required to comply with the description cited can only be found in the river-bed;

XXII. Considering that, Mr. Dyer's words being thus understood, the fact that he made a journey to Rooibank to examine the plateau is

explained because the pasture-land and well-watered country which the plateau contained and with the annexation of which we are dealing could only be found at Rooibank;

XXIII. Considering that, this point having been established, the phrase „this place is an oasis“ becomes also intelligible because the German memorandum ends by recognising the possibility, which in any case would be evident, of calling Rooibank an oasis when its fertility is compared with the rest of the annexed territory—a comparison which, even if not explicitly indicated in Captain Dyer's words, may be supposed to have been present in his mind, as it would be in the mind of anyone who, after travelling for long hours over a poor or barren country and over the desolate plain of the Namib, enters the district of Rooibank, which is covered with grass and well wooded;

XXIV. Considering that the featureless character of the bed of the Kuisip from the neighbourhood of Scheppmansdorf, the regularity of its broad surface, its noticeable height, which contributes to diminish the impression which the Namib might cause as the dominating height (when the trees do not hide it), and the absence from it of any channel indicating the superficial passage of the waters of a river, explain how it was called „plateau,“ that is to say, „elevated plain,“ although its elevation was less than that of the Namib, which bounds it to the north, and of that of the sand-hills which surround it on the south;

XXV. Considering that if the previous arguments are admitted, and therefore that, with more or less propriety as to the use of the word but with no uncertainty as to the intention, what is called „plateau“ in the Proclamation of Annexation is part of the valley of the Kuisip, the principal problem still remains undecided, namely, that relative to its extent and limits, or, in other words, whether the said plateau should be understood as ending near the old church at Scheppmansdorf or, on the contrary, should be prolonged to Ururas;

XXVI. Considering that against the prolongation of the plateau to Ururas the omission of any mention of this locality, both in the proclamation and in the report of the 12th March, 1878, and even in the second report of Mr. Dyer, dated the 14th September, 1887, cannot be urged; because with regard to the two first the omission is easily explained, since neither does the name „Ururas“ appear in the map of the coast used for the annexation, nor is it clear that Commander Dyer knew of it at that time, and with regard to the second report it was natural that its author did not wish to use, in explanation of his intentions, a name which he had not had in his mind when he carried out those intentions;

XXVII. Considering that it cannot be maintained either, in the sense set out, that Scheppmansdorf is a fixed point constituted by the mission buildings, in such a way that the mention of it in the proclamation of 1878 is sufficient to warrant the claim that the eastern frontier of the annexed territory should be traced close to them; because all the information

obtained with regard to this matter, and even the very declarations of the German witnesses, agree that Scheppmansdorf is something indefinite and vague; the missionary Boehm saying in effect, as was stated in recital XXVIII, that this place is about a „kilometre and a half in extent," that it was called previously Awahaus or Rooibank, and that it is the principal place of the Namas and Hottentots, although lacking the fixed character common to European hamlets or villages and the „exact limits for the community or tribe"; the trader Joseph Sichel asserting that Scheppmansdorf is ordinarily called Rooibank (whose undefined character is expressly recognised in the German statements), and Dr. Belck expressing himself in analogous terms;

XXVIII. Considering that, though the witnesses mentioned think that the eastern frontier of the territory ought to pass close to the church of Scheppmansdorf, the words transcribed prove that their opinion is not based on the fact of Scheppmansdorf being a fixed point, which is the question at issue at this moment, but that it is an opinion maintained after recognising as clearly as possible, as we have seen, that that place has no precise limits, or, in other words, is exactly the opposite to what a fixed point represents;

XXIX. Considering that the words employed by Mr. Dyer in his report of the 12th March, 1878, „there being no fixed points on this immediate coast, it was determined that the Rooibank plateau and Scheppmansdorf to the south-east should be included in a line drawn from 15 miles south of Pelican Point to 10 miles inland from the mouth of the Swakop River" cannot be interpreted in the sense that Scheppmansdorf was considered at that date as a fixed point and chosen for lack of fixed points in the coastal region to establish the boundary of the territory, because against this interpretation the following arguments militate:

(i.) That if it is understood that Scheppmansdorf is designated as a fixed point in the sentence which is being discussed, this is no reason for not attributing the same character and function to the plateau of Rooibank, which is mentioned immediately before and is governed grammatically by the same verb—a sequence which nevertheless seems to be avoided or which it is not desired to deduce from the interpretation which is impugned;

(ii.) That, far from its appearing that the plateau and Scheppmansdorf are both fixed points, as follows from what has been said, they embrace a considerable area;

(iii.) That the mere fact that the author of the report refers to the *inclusion* of Scheppmansdorf and the plateau of Rooibank within a line indicates that neither the former nor the latter are to be taken as fixed points, but as places of greater or less extent situated *inside* the frontier and which therefore cannot be points on it marking or indicating its direction precisely;

(iv.) And, finally, that it is much more natural, simple, and logical to understand, in consonance with what precedes, that the lack of fixed points on the coast is invoked in Mr. Dyer's report in order to justify

the extension of the western frontier of the territory along the „immediate coast“ being determined in miles and not by means of places or physical features;

XXX. Considering that, in order to maintain that the plateau and the territory of Walfisch Bay end near the church of Scheppmansdorf, it is impossible effectually to assert the existence, in the portion of the bed of the Kuisip situated to the west, within undoubted British territory, of grazing ground and water sufficient for the needs of the white colonists resident in the Bay; because, in addition to this assertion not being proved, to its being openly contradicted by one of the high parties, and to its prejudicing the solution of questions which will have to be examined later, it is very clear that the relation between the needs of the colonists and the extension of the pasture-land depends on circumstances and considerations both diverse and variable and does not offer by itself alone a sure criterion to solve the problem, all the more so that at the time of the annexation it is reasonable to suppose that the probable development of the British station was thought of, although there is no datum to-day for a calculation how far the forethought of Mr. Dyer and his advisers extended in regard to the matter;

XXXI. Considering that the fact that the British Admiralty charts before 1885 show that the eastern frontier starts at Scheppmansdorf and not at Ururas does not constitute a recognition of the thesis that the territory of Walfisch Bay ought to finish in the vicinity of the Scheppmansdorf mission buildings (with the result that „the plateau,“ as understood in the previous considerations, would end there); because, from the moment that the note „approximate boundaries of the station of Walfisch Bay“ is found on the said charts, the uncertainty prevailing as to those boundaries is demonstrated without any doubt, an uncertainty which is perfectly explicable in the days before Mr. Wrey's survey when the topographical data were lacking which were necessary to mark on a map the exact extent of the plateau which Mr. Dyer expressly mentioned when he described the frontiers of the territory;

XXXII. Considering that the supposition cannot be admitted that the phrase „approximate limits of the station of Walfisch Bay,“ found on the Admiralty charts before 1885, must be explained not in the manner set out in the preceding consideration, but as an allusion to the fact that the proposal of the Mixed Commission of Angra Pequeña and the West Coast was then awaiting a settlement, a proposal which was designed to change the word „Rooibank“ employed in Mr. Dyer's proclamation and to substitute for it the word „Rooikop,“ because it is sufficient to observe that, as this proposal was made on the 14th August, 1885, the Admiralty charts published in previous years could not allude to it;

XXXIII. Considering that the fact that the magistrate Mr. Simpson gave his authority to a contract in which it was stated that the limit of

the said territory was at Rooibank cannot be taken as a proof that the British authorities formerly took a different view from what they do to-day as to the eastern frontier of the territory of Walfisch Bay, and believed it to be near the church at Scheppmansdorf and at a distance from Ururas; because, even assuming the assent of the magistrate to what was stated by the parties to the contract, it is certain that he did not compromise to any extent his more or less firm opinion with regard to the boundaries by agreeing to Rooibank being designated as a point on the frontier, as it was a name which admittedly implied an area and its extension as a grazing ground to Ururas was affirmed by Mr. Simpson before the mixed commission of 1885, and its use in the contract referred to invalidates the argument in question, since the assertion that Rooibank signifies „at the side of or near the mission buildings of Scheppmansdorf" would be opposed to the whole general tenour of the German argument;

XXXIV. Considering that this sense of space and indefiniteness implied by the word „Rooibank" is implicitly recognised by the parties signing the contract by their placing with significant insistence after the word „Rooibank" the words „within the limits of the territories of Walfisch Bay," showing very clearly that nothing precise is indicated by the word „Rooibank," and that what they referred to was a line crossing or touching the lands of Rooibank and serving as the frontier of British territory;

XXXV. Considering that the transport of goods from Sandwich Harbour to Damaraland viâ the back of the church at Scheppmansdorf and the storing of them in its vicinity without paying customs duty does not constitute evidence of the same value as the former evidence, because this proceeding can be explained as a case of smuggling of little importance, of short duration, and difficult for the authorities at Walfisch Bay to know of or to prevent;

XXXVI. Considering that as a matter of fact the small importance of the smuggling is recognised by the declaration of the missionary Boehm, cited by Germany, that its short duration follows not only from the fact, supported by documentary evidence, that customs duties were established in Walfisch Bay on the 17th August, 1884, and ceased on the 13th August, 1885, but also from the declaration of the German witness Dr. Belck, who affirms that the carrying of the goods began after the month of November of the first of the years mentioned, and that the difficulty of knowing of and stopping a traffic such as the one we are dealing with was due to the distance between Scheppmansdorf and Walfisch Bay and to the vigilance required to stop all contraband in a comparatively extensive zone;

XXXVII. Considering that to complete the case the explanation of these proceedings as a case of contraband is not the only one possible, because it is to be seen from the sketch presented by the witness Mr. Evensen, and reproduced in the German memorandum, that the house which he lived in with Mr. Wilmer during the year 1885 was situated

to the south-east of the former church at Scheppmansdorf, and at a distance which (comparing the dimension of the sketch with the scale, approximately twice as large, of the map which faces the first page of the German memorandum) does not allow the inference that the house was at times a depôt for goods within the limits beaconed by Mr. Wrey; by which reasoning it is clear that the transport of goods disembarked at Sandwich Harbour would have been effected across territory undeniably German, and could not have been prevented by the British authorities;

XXXVIII. Considering that the force of the preceding reasoning is in no way diminished by the fact that some witness or other, such as the trader Joseph Sichel, supposes that the depôt of merchandise belonging to Messrs. Wilmer and Evensen was situated more than $1^1/_2$ kilom. to the east of the mission station, from which it could be deduced that it was situated within the disputed territory, because, apart from the fact that nobody could know better than Mr. Evensen the situation of his own house and store, and apart from the fact that nobody took the trouble as he did to sketch it, it is easily understood that Messrs. Wilmer and Evensen, having lived after 1886 at a different place from where they lived in 1885, confusion between the two might arise in the minds of outsiders, and goods might be supposed to be stored in one place which, during the levy of customs duties in Walfisch Bay, were really kept in the other;

XXXIX. Considering that, to judge by the argument, based on the admission of the magistrate Mr. Simpson, that the tree from which Jan Jonker Afrikander hanged a Berg Damara shepherd stood on German territory 600 yards from Rooibank (Scheppmansdorf), the data at the disposal of both parties are deficient and even contradictory, so that it is impossible to fix with certainty the exact point where the murder was committed;

XL. Considering that this is very largely due to the vagueness as to the names Rooibank and Scheppmansdorf, as they are understood and as Mr. Simpson understood them in some of his statements before the mixed commission, a vagueness which enables the distance to be reckoned as 600 yards from the mission buildings and also from a place situated more to the east or near the line drawn by Mr. Wrey;

XLI. Considering that if the distance of 600 yards is measured in a southerly direction from different points at Rooibank, near the straight line which serves as the boundary of the territory and joins boundary pillars (C) and (D) set up by Mr. Wrey, trees on which the Berg Damara might have been hanged are found within this distance (growing in the kloof mentioned in paragraph 13 of recital XXXVI, and therefore in German territory), just as the man might have been hanged, as is claimed by Germany, from one of the trees in the Kuisip valley standing to the east of the Scheppmansdorf Mission;

XLII. Considering that if the German Government maintain firmly, in accordance with information derived from their officials, that the scene

of the murder was on the disputed territory, the British Government assert with equal firmness and persistency, referring to Mr. Simpson's statements, that the said line is outside the line (C—D), though without determining its position more than approximately;

XLIII. Considering that the evidence of Mr. Evensen with regard to this question is inconsistent, because, from his statement of the 14th January, 1909, it follows that the tree from which the Berg Damara was hanged was some 200 metres to the south-west of the house inhabited by the witness, which house in its turn stood at that time to the south-west of the Scheppmansdorf church (an assertion which supports the British case), whilst the evidence given on the 9th March, 1910, corroborates the German view, as he then stated that the murder took place in the territory now in dispute;

XLIV. Considering that, for the reasons given, it cannot be regarded as proved that Mr. Simpson's statements respecting the scene of the crime imply the admission that the eastern frontier of Walfisch Bay passed very close to the church at Scheppmansdorf, where, accordingly, it would be necessary to suppose the grazing flats, included by Mr. Dyer in the annexation, terminated;

XLV. Considering that, even assuming that it was proved, in spite of all that has been said in the preceding considerations, that the magistrate Mr. Simpson had admitted, in connection with the contents of a contract, the transport and storing of goods duty free and the commission of a crime, that the eastern frontier of the territory of Walfisch Bay passed close to the church at Scheppmansdorf, such an admission would only express an opinion which, even if it were an echo of other more general opinion held at that time, cannot be accepted until it is shown by an investigation analogous to that which is taking place in connection with this award to be in consonance with the Proclamation of Annexation of 1878 and with the acts and documents by which it must be interpreted, and considering that the rights of Great Britain cannot in any case be prejudiced by the error which one of her officials may have fallen into, as he lacked the representative character indispensable to bind the State, in this matter, by his words or acts;

XLVI. Considering that the evidence constituted by the sworn declarations of Messrs. Boehm, Sichel, Evensen, and Belck, cited in the German memorandum to show that until 1885 both the British authorities and the colonists resident in Walfisch Bay who were acquainted with the boundary question understood that the eastern frontier of the territory passed close to the church at Scheppmansdorf, is evidence like that advanced by Great Britain in the opposite sense, the value of which, being in favour of the high party which invokes it, should be weighed more carefully than is necessary when it is unfavourable to that party, and starting from the basis, as has been done till now, that this method is in accordance with the rules of sane criticism, in conformity with the leading system in modern law and the only one acceptable in the proceed-

ings of an international arbitration, in which no principle or positive rule imposes any other limit on the powers of the arbitrator;

XLVII. Considering that all the evidence alluded to has been produced out of court, in the sense that the arbitrator has not been able to conduct any cross-examination and without being disputed, inasmuch as the party prejudiced by it has not cross-examined the witnesses either, circumstances which, though they do not deserve blame and appear easily explicable in the present case, certainly diminish the value of the evidence;

XLVIII. Considering that, to judge by the respective assertions of the two parties, the witnesses brought forward by one or the other depend in some way or other, by reason of nationality, residence, or office, on the State in whose favour they are giving evidence—a fact which, though it does not properly constitute a legal objection, is a ground for a reasonable presumption that they may accentuate their assertions, whether they wish it or not, in a definite sense;

XLIX. Considering that the four German witnesses Messrs. Boehm, Sichel, Evensen, and Belck speak of the boundaries established by Mr. Dyer, not by personal and first-hand knowledge of the facts of annexation, but referring to what they have heard other people say, and that, in giving evidence as to the opinion of those persons, they simply give evidence as to public opinion or rumour supported by indirect testimony, and therefore weak and dangerous;

L. Considering that these statements and common report are inconsistent not only with the evidence of Dixon, Hendrik Petros, Willem, Engelbrecht, Jan Sarop, and Jim, adduced by Great Britain, but also with the evidence given by Mr. Wrey, alluded to at the end of paragraph (*d*) of section XXXII, with the last statements of Captain Dyer, and with what Mr. Sandys declared on the 9th June, 1910, in confirmation of some of the statements by the last named;

LI. Considering that, though the value of this British evidence is questionable because some of it is based on hearsay and some of it emanates from natives whose credibility is disputed, because mistakes are noticed in it, because the credibility of the witness Mr. Dixon is placed in doubt, and because the value of statements made by Mr. Dyer subsequent to 1878 have been denied, it is certain:

(i.) That the majority of the witnesses mentioned speak of the boundaries with a direct knowledge of the facts of the annexation, and not by a mere reference to other persons;

(ii.) That neither the evidence of the German sergeant of police Carl Leis, nor that of Von Broen, respectively mentioned in paragraphs 13 and 14 of recital XXXV, is a sufficient proof that the native witnesses Hendrik Petros, Willem, and Engelbrecht were not present as they allege, and as it is supposed they were in the first paragraph mentioned, when Captain Dyer visited Rooibank; because Carl Leis merely states, *on the authority* of Jan Sarop, that at that time only two Hottentots, now dead,

resided *ordinarily* at Rooibank; and because Von Broen confined himself to stating with glaring vagueness and indecisiveness that he heard *some native* say that all the natives of the country who were present at the annexation were dead, and that he believes that it was said *about a year ago;*

(iii.) That whatever the characteristics of the native race that inhabits the territory of Walfisch Bay and the general traits attributed to it may be, it is not possible entirely to deny the value of the evidence given by the individuals belonging to it, above all when these statements are confirmed by similar statements by Europeans;

(iv.) That if the Hottentot Willem is mistaken in declaring that Captain Dyer was at Ururas and Zwartbank in 1878, the German witness Sichel is also mistaken, as was shown in consideration XXXVIII, with regard to the storing of the goods transported on account of Mssrs. Wilmer and Evensen, and the view of the missionary Bœhm that the transfer of the boundary of the territory farther east of the church at Scheppmansdorf would only have as its object the annexation of a greater quantity of *river sand* is also erroneous;

(v.) That even if the evidence of Mr. Dixon is discarded on account of the criticism levelled at him in the German case, just as for an analogous reason the evidence of Mr. Koch must be discarded as it is impugned in the British memorandum, it is imperative to add to the statements of the natives mentioned those of Messrs. Dyer, Wrey, and Sandys; since, though with regard to Captain Dyer it has been pointed out that his statements subsequent to the date of annexation lack the decisive value of his earlier ones, they nevertheless also constitute an element of opinion worthy of consideration, though it must be recognised that, like all the rest, they are impaired by deficiencies and lack full force as evidence;

LII. Considering that the conflict between the German evidence and that of Great Britain is sufficient to prevent its being considered proved that, as is maintained in the former, it was the common opinion until 1885 that the eastern frontier of Walfisch Bay passed near the church at Scheppmansdorf, and that it is best to suppose, for the sake of the credit of both sets of witnesses, that, even at that time, the news of the Proclamation of Annexation raised a difference of opinion which foreshadowed the question now at issue, and that each view is reflected in the evidence of the high party which brings it forward;

LIII. Considering that, after examining and testing the arguments expounded to prove that „the plateau,“ as it has been defined above, and with it the territory of Walfisch Bay end at the mission buildings at Scheppmansdorf, it is clear that the prolongation of both in an easterly direction to Ururas is required by the topographical conditions of the region; for if this region can be called a plateau as far as the church at Scheppmansdorf by reason of its height and the regularity of its wide surface, it can be so termed all the way to Ururas, since it does not lose either of these characteristics, nor in general its direction and shape,

till it reaches that place, authorising the supposition, unless something else disproves it expressly, that such a topographical unity cannot be divided on pain of dividing the plateau which Commander Dyer wished to include, taking the natural meaning of his words, in its entirety and not partially;

LIV. Considering that this topographical unity of „the plateau“ as far as Ururas was recognised by the German commissioner Dr. Goering, as was said at the end of recital XVIII, and that it is confirmed by Mr. Simpson in his statements made before the mixed commission of 1885, before the boundary question arose, when in answer to a question by the British commissioner he says that if the grazing commonage includes the *whole of the plateau* it would also include Ururas;

LV. Considering that the declaration with which we are dealing, like all those made before the mixed commission, has special value on account of its date and because the two parties are represented in the report, and it is not possible to discredit them generally on the pretext of contradictions attributed to the witnesses, since those pointed out in the last paragraphs of recital XXVII are explained (with the exception of an erroneous interpretation of the name „Awahaus“) by noting that, as Mr. Simpson himself indicates, the names „Rooibank“ and „Scheppmansdorf“ have a wide meaning in which they are identical and a more limited one in which they represent something different, and the apparent contradiction in the replies only disappears when they are referred, according to their nature, sometimes to one and sometimes to the other of the two senses explained;

LVI. Considering that the whole plateau, whose topographical unity and consequent extension to Ururas is emphasised in the preceding considerations, is pasture-land with plenty of water, since there exist or have existed to the east of the church at Scheppmansdorf wells and gardens, also a large area covered with „quickgrass,“ as Mr. Wrey's map indicates, and a considerable number of trees which afford, in addition to fuel, valuable fodder for cattle, such as the anna—circumstances which, if taken in conjunction with the obvious intention of Mr. Dyer to provide water and good pasture for the station of Walfisch Bay and with the fact of his having been advised in this matter by persons knowing the locality, render any interpretation difficult which would result in this grazing ground being divided, since in the conception of this word, as in the conception of „plateau,“ there is a sense of unity whose division in case of doubt cannot be presumed;

LVII. Considering that, whether or no there existed in Captain Dyer's mind the initial intention of considering the interests of the natives in the matter of the extent of the grazing grounds which were to be annexed, there is no doubt that in all the hypotheses advanced the place where they habitually have their dwellings in the vicinity of the mission-house at Scheppmansdorf was included in British territory, and this being so it

was not natural that Captain Dyer should annex a more or less primitive population and fail to annex the adjoining pasture zone, on which the said population keeps its cattle and secures to itself, its conditions being as aforesaid, the principal elements of life;

LVIII. Considering that the constant existence at Scheppmansdorf of a village or small native population, which is the basis of the preceding reasoning, is perfectly proved not only by British evidence of later date than the boundary controversy, but also by the declarations of Mr. Simpson before the mixed commission of 1885, by the missionary Boehm who calls that place „the principal place of the Namas and Hottentots," and by Dr. Belck who states that there were at the place a number of huts, as there were in 1884, though the majority of the inhabitants are accustomed to abandon them after the gathering of the fruit of the nara;

LIX. Considering that the natives residing at Scheppmansdorf feed their cattle along the valley of the Kuisip, sharing the pastures, which in different forms (for example, quickgrass and fruit of the anna) and with some variety, depending on places and seasons, extend to Ururas, without the existence of this community, which was recognised by Mr. Simpson before the mixed commission of 1885 and vigorously asserted on the British side and supported by a diversity of evidence, appearing to be contradicted in a direct and definite manner by the German witnesses;

LX. Considering that, though the cattle belonging to the inhabitants of Scheppmansdorf may have grazed or may sometimes graze beyond Ururas, it is not proved that this happens habitually and in any case it must be held that such cattle were therefore on ground already designated by another name, for which reason it is necessary to recognise that the pastures referred to in the preceding considerations, as well as the plateau, terminate at Ururas;

LXI. Considering that both the plateau and the pastures in question can be called without distinction „the plateau or pastures of Scheppmansdorf or Rooibank," when once both names are completely identified in common usage in the sense explained, as numerous depositions prove, and especially the evidence given before the mixed commission of 1885 and the joint letter signed on the 14th August of the same year by Dr. Bieber and Judge Shippard, in which the correction of the boundaries of the territory laid down in Commander Dyer's proclamation is suggested, with the object that Scheppmansdorf should be designated „Scheppmansdorf or Rooibank";

LXII. Considering that the prolongation of the plateau or pastures of Scheppmansdorf to Ururas explains satisfactorily the terms of the proclamation of the 12th March, 1878, because, as Scheppmansdorf was therein indicated as the limit of British territory and the name was known to be somewhat vague, inasmuch as it applied to land extending some miles, it was necessary to add something to make the frontier more precise; and this necessity was the origin of the use of the words „including the plateau," by which it was desired to indicate beyond doubt,

in the only possible way, as there were no maps, that the boundary would have to be laid down, not at the beginning nor in the middle of the lands of Scheppmansdorf, but where its pastures terminate and with them the plateau whose annexation was desired;

LXIII. Considering that the explanations, based on the phrase „including the plateau“ being superfluous and on an attempt to justify the theory that Captain Dyer annexed territory beyond his instructions in extending the territory of Walfisch Bay to Scheppmansdorf, are much less probable than the explanation in LXII; because with regard to the first the repetition of the expression in Commander Dyer's report explaining the annexation shows that he considered its employment indispensable, and with regard to the second the following arguments contribute to rebut the hypothesis which it expresses:

(i.) That the instructions received by Commander Dyer from his superiors left him full liberty to include all that he did include in the annexed territory, since they authorised him in the first instance, as was said in recital II, to proclaim sovereignty over a radius of 10 or 12 miles *or so*, as it appeared to him necessary after consultation with Palgrave, and authorised him some days afterwards, with still more latitude, to take possession of the territory adjacent to Walfisch Bay to a distance inland which he was to fix in consultation with Mr. Palgrave if he was there, it being evident that the absence of Mr. Palgrave forced Commander Dyer to settle by himself the extent of the territory to be annexed and to substitute for Mr. Palgrave's advice information obtained from the white colonists inhabiting the bay;

(ii.) That the letter from Commodore Sullivan, cited in recital IV, which states that the boundaries laid down by Commander Dyer „appear reasonable,“ proves that he was not considered in any way to have exceeded his instructions;

(iii.) That a mere glance at the map is enough to show that, taking the harbour of Walfisch Bay as the centre, the radius which connects it with Nuberoff is longer than the one connecting it with the mission buildings at Rooibank and a little shorter than the one connecting it with Ururas, for which reason Captain Dyer's delimitation, supposed to be in excess of his instructions, would affect both extremities of the territory without his anxiety to justify his action in one case, and not in the other, being explained;

LXIV. Considering that the effective occupation and the exercise of jurisdiction on the part of Great Britain over all the disputed territory before the boundary question arose are indicated by different acts which are not impugned, such as the grant of gardens by the resident magistrates at Walfisch Bay and of the lands in Rooibank and Ururas for which the traders Messrs. Wilmer and Evensen petitioned the Cape Government, as also the punishment of an illegal act and the arrest of an offender at Ururas;

LXV. Considering that, if, for the reasons explained, the prolongation of the territory of Walfisch Bay to Ururas is admitted as correct, it is

unnecessary to invoke the hinterland doctrine in support of the British claim, a doctrine which, further, would not be applicable to the case in discussion, because the taking possession of the said territory and its antecedents indicate the intention of including the land annexed within precise limits, with the implicit renunciation of all intention to extend them, and because, as that doctrine is understood, it requires for its application the existence or assertion of political influence over certain territory, or a treaty in which it is concretely formulated, none of which circumstances apply to the case which is the cause of this controversy;

LXVI. Considering that the second of the questions to be examined in this award, *i. e.,* whether the southern boundary of the territory of Walfisch Bay should be traced from a point distant 15 nautical miles, or, on the contrary, from one distant 15 statute miles from Pelican Point, is a question which raises as a preliminary another one as to which the necessary powers of settlement have been given to the arbitrator in the Arbitration Agreement;

LXVII. Considering that it is a constant doctrine of public international law that the arbitrator has powers to settle questions as to his own competence by interpreting the range of the agreement submitting to his decision the questions in dispute;

LXVIII. Considering that the decision whether the eastern frontier of the territory of Walfisch Bay should be measured in nautical or statute miles affects the starting-point of the southern frontier, whose demarcation is submitted to the decision of the arbitrator in general terms and without restriction of any kind, in accordance with the Convention of the 1st July, 1890, and the Declaration of the 30th January, 1909;

LXIX. Considering that if, in spite of the fact that both instruments speak simply of submitting to arbitration the settlement of the „southern frontier of the territory of Walfisch Bay," it is understood to be necessary to interpret the former in accordance with its antecedents, and accordingly that the Agreement of 1890 referred only to the part of the southern frontier in dispute at that date, *i.e.*, to the line from the vicinity of the church of Scheppmansdorf to Ururas, this same reasoning would conduce to recognising that the Declaration of 1909 refers to all that was then at issue and therefore to the starting-point of the southern frontier disputed since 1904;

LXX. Considering that, in virtue of what has been said, the arbitrator is competent to settle this second question which has been brought forward in the German memorandum;

LXXI. Considering that, although nautical miles are not ordinarily used to measure land in British territory, there is no reason to suppose that a naval officer like Commander Dyer did not use them, as he states, to determine an extent of coast (which is what is meant by the western frontier), above all, when he had as his guide an Admiralty chart and had to refer to the distances on it;

LXXII. Considering that, from the selection of Nuberoff as the boundary of the territory on the Swakop River, it does not follow that,

in contradistinction to what was done in the case of the western frontier, the northern frontier was measured in statute miles, because it is clear from Mr. Wrey's report, dated the 14th January, 1886, that the distance between Nuberoff and the mouth of the Swakop was not estimated to be 10 exact miles and therefore that that point was marked as the boundary, not in accordance with the result of a scrupulous survey of the ground, but as being a natural feature near the place where the north-eastern corner of the territory ought to lie, and which it was necessary to accept, even if the extent of the territory was thereby reduced, as a permanent and visible mark of the frontier established;

LXXIII. Considering that, as exception has not been taken to the continued possession on the part of Great Britain of the territory extending to the point on the coast where the southern frontier, as drawn by Mr. Wrey, commences, it is necessary to accept the fact of possession, cited by the British Government, and to see in it not only a proof of the sense in which the Proclamation of Annexation was always interpreted with reference to the matter under discussion, but also the evidence of a wish to acquire and of an effective occupation, by which in any case British sovereignty could have been established over the zone in dispute, before the adjacent territory was placed under the protection of Germany;

LXXIV. Considering that the demarcation of the southern boundary of the territory of Walfisch Bay by Mr. Wrey in 1885 has only been disputed as regards the points which have now been investigated;

LXXV. Considering that, although the accuracy with which the demarcation was carried out is proved by all the preceding arguments, it does not follow from this that it had binding force of any kind on Germany, who, as the Power conterminous with the territory of Walfisch Bay at the time of the demarcation, could only be bound thereby so far as either she took part in it or gave her assent to it, since there is no juridical principle which applies the effect of a demarcation to States which, being directly interested in it, have not co-operated in any way in its execution or consented to accept its consequences.

For the reasons explained the arbitrator declares:

Firstly, that the demarcation of the southern boundary of the territory of Walfisch Bay carried out by Surveyor Wrey in 1885 is not binding on Germany on the ground that that Power did not take part in it and did not give her assent to it subsequently.

Secondly, that since the said demarcation fixes the southern boundary referred to accurately, it must be accepted in future, by virtue of this arbitral award, as the exact definition of the frontier under discussion, which therefore must have the starting-point and termination indicated by Mr. Wrey, passing through the two other points where he erected the present intermediate beacons.

Madrid, May 23, 1911.

Joaquin F. Prida.

59.

ETATS-UNIS D'AMÉRIQUE, HONDURAS.

Convention d'extradition; signée à Washington, le 15 janvier 1909.*)

Treaty Series, No. 569.

The United States of America and the Republic of Honduras, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Honduras, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

The President of the Republic of Honduras, Doctor Luis Lazo A., Envoy Extraordinary and Minister Plenipotentiary of Honduras to the United States;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

Article I.

It is agreed that the Government of the United States and the Government of Honduras shall, upon mutual requisition duly made as herein provided, deliver up to justice any person who may be charged with or may have been convicted of any of the

Los Estados Unidos de América y la República de Honduras, deseando confirmar sus amistosas relaciones y promover la causa de la justicia, han resuelto celebrar un tratado para extradición de los prófugos de la justicia entre los Estados Unidos de América y la República de Honduras, y han nombrado al efecto los siguientes Plenipotenciarios:

El Presidente de los Estados Unidos de América, al Señor Elihu Root, Secretario de Estado de los Estados Unidos; y

El Presidente de la República de Honduras, al Doctor Luis Lazo A., Enviado Extraordinario y Ministro Plenipotenciario de Honduras en los Estados Unidos;

Quienes, después de comunicarse sus respectivos plenos poderes, que encontraron en buena y debida forma, han acordado y concluido los artículos siguientes:

Artículo I.

El Gobierno de los Estados Unidos y el Gobierno de Honduras convienen en entregar á la justicia, á petición uno de otro, hecha con arreglo á lo que en este Convenio se dispone á todos los individuos acusados ó convictos de cualesquiera de los delitos

*) Les ratifications ont été échangées à Washington, le 10 juillet 1912.

crimes specified in Article II of this Convention committed within the jurisdiction of one of the Contracting Parties while said person was actually within such jurisdiction when the crime was committed, and who shall seek an asylum or shall be found within the territories of the other, provided that such surrender shall take place only upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

Article II.

Persons shall be delivered up according to the provisions of this Convention, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms of parricide, assassination, manslaughter, when voluntary; poisoning or infanticide.

2. The attempt to commit murder.

3. Rape, abortion, carnal knowledge of children under the age of twelve years.

4. Bigamy.

5. Arson.

6. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

7. Crimes committed at sea:

(a) Piracy, as commonly known and defined by the law of nations, or by statute;

(b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;

especificados en el artículo 2º de este Convenio, cometidos dentro de la jurisdicción de una de las Partes Contratantes, siempre que dichos individuos estuvieren dentro de dicha jurisdicción al tiempo de cometer el delito y que busquen asilo ó sean encontrados en el territorio de la otra; con tal que dicha entrega tenga lugar únicamente en virtud de las pruebas de culpabilidad que, conforme á las leyes del país en que el refugiado ó acusado se encuentre, justificarían su detención y enjuiciamiento si el crimen ó delito se hubiese cometido allí.

Artículo II.

Segun lo dispuesto en este Convenio, serán entregados los individuos acusados ó convictos de cualquiera de los delitos siguientes:

1. Asesinato, incluyendo los delitos designados con los nombres de parricidio, homicidio voluntario envenenamiento é infanticidio.

2. Tentativa de cualquiera de estos delitos.

3. Violación, aborto, comercio carnal con menores de doce años.

4. Bigamia.

5. Incendio.

6. Destrucción, ú obstrucción voluntaria é ilegal de ferrocarriles, cuando pongan en peligro la vida de las personas.

7. Delitos cometidos en el mar:

a) Piratería, segun se entiende y define comunmente por el Derecho Internacional ó por las leyes;

b) Echar á pique ó destruir intencionadamente, un buque en el mar, ó intentar hacerlo;

(c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud or violence taking possession of such vessel;

(d) Assault on board ships upon the high seas with intent to do bodily harm.

8. Burglary, defined to be the act of breaking into and entering the house of another in the nighttime with intent to commit a felony therein.

9. The act of breaking into and entering into the offices of the Government and public authorities, or the offices of banks, banking houses, saving banks, trust companies, insurance companies, or other buildings not dwellings with intent to commit a felony therein.

10. Robbery, defined to be the act of feloniously and forcibly taking from the person of another, goods or money by violence or by putting him in fear.

11. Forgery or the utterance of forged papers.

12. The forgery or falsification of the official acts of the Government or public authority, including courts of justice, or the uttering or fraudulent use of the same.

13. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by national, state, provincial, territorial, local, or municipal governments, banknotes or other instruments of public credit, counterfeit seals, stamps, dies, and marks of state or public administrations, and the utterance, circulation, or fraudulent use of the above mentioned objects.

c) Motín ó conspiración de dos ó más individuos de la tripuloción ú otras personas, á bordo de un buque en alta mar, con el propósito de revelarse contra la autoridad del capitán ó patrón de dicho buque ó de apoderarse del mismo por fraude ó violencia.

d) Abordaje de un buque en alta mar con intención de causar daños materiales.

8. El acto de allanar la casa de otro durante la noche con el propósito de cometer en ella un delito.

9. Allanamiento de las oficinas del Gobierno y autoridades públicas, ó de bancos ó casas de banca, ó de cajas de ahorro, cajas de deposito, ó de compañías de seguros y demas edificios que no sean habitaciones, con intención de cometer un delito.

10. Robo, entendiéndose por tal la sustracción de bienes ó dinero de otro con violencia ó intimidación.

11. Falsificación ó expendición de documentos falsificados.

12. Falsificación y suplantación de actos oficiales del Gobierno ó de la autoridad pública inclusos los tribunales de justicia, ó la expendición ó uso fraudulento de los mismos.

13. La fabricación de moneda falsa, bien sea ésta metálica ó en papel, títulos ó cupones falsos de la deuda pública, creada por autoridades nacionales, provinciales, territoriales, locales, ó municipales, billetes de banco ú otros valores públicos de crédito de sellos de timbres, cuños y marcas falsas de Administración del Estado, ó públicas, y la expendición, circulación ó uso fraudulento de cualquiera de los objetos arriba mencionados.

14. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars (or Honduran equivalent).

15. Embezzlement by any person or persons hired, salaried, or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars (or Honduran equivalent).

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

17. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars or more.

18. Obtaining money, valuable securities or other property by false pretenses or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars (or Honduran equivalent).

19. Perjury or subornation of perjury.

20. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director, or officer of any company or corporation, or by any one in any fiduciary position, where the amount of money or the value of the property

14. Peculado ó malversación criminal cometida dentro de la jurisdicción de una de ambas Partes por empleados públicos ó depositarios, cuando la cantidad sustraída exceda de 200 dollars (ó su equivalente en Honduras).

15. Sustracción realizada por cualquier persona ó personas asalariadas ó empleadas, en detrimento de sus principales ó amos, cuando el delito esté castigado con prisión ú otra pena corporal por las leyes de ambos países, y cuando la cantitad sustraída exceda de 200 dollars (ó su equivalente en Honduras).

16. Secuestro de menores ó adultos, entendiendo por tal el rapto ó detención de una persona ó personas con objeto de obtener dinero de ellas ó de sus familias ó para cualquier otro fin ilícito.

17. Hurto, entendiendo por tal la sustracción de efectos, bienes muebles ó dinero por valor de 25 dollars en adelante.

18. Obtener por títulos falsos, dinero, valores realizables ú otros bienes, ó recibirlos, sabiendo que han sido ilicitamente adquiridos, cuando el importe del dinero ó el valor de los bienes adquiridos ó recibidos exceda de 200 dollars (ó su equivalente en Honduras).

19. Falso testimonio ó soborno de testigos.

20. Fraude ó abuso de confianza cometido par cualquier depositario, banquero, agente, factor, fiduciario, albacea, administrador, tutor, director ó empleado de cualquier compañía ó corporación ó por cualquier persona que desempeñe un cargo de confianza,

misappropriated exceeds two hundred dollars (or Honduran equivalent).

21. The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both Contracting Parties.

Article III.

The provisions of this Convention shall not import claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no person surrendered by or to either of the Contracting Parties in virtue of this Convention shall be tried or punished for a political crime or offense. When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the sovereign or head of a foreign state or against the life of any member of his family, shall not be deemed sufficient to sustain that such a crime or offense was of a political character, or was an act connected with crimes or offenses of a political character.

Article IV.

No person shall be tried for any crime or offense other than that for which he was surrendered.

Article V.

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction

cuando la cantidad ó el valor de los bienes defraudados exceda de 200 dollars (ó su equivalente en Honduras).

21. Procederá así mismo la extradición de los complices ó encubridores de cualquiera de los delitos enumerados siempre que, con arreglo á las leyes de ambas Partes Contratantes, estén castigadas con prisión.

Artículo III.

Las estipulaciones de este Convenio no dan derecho á reclamar la extradición por ningún crimen ó delito de carácter político ni por actos relacionados con los mismos; y ninguna persona entregada por ó á cualquiera de las Partes Contratantes, en virtud de este Convenio, podrá ser juzgada ó castigada por crimen, ó delito alguno político. Cuando el delito que se impute entrañe el acto, sea de homicidio, de asesinato ó de envenenamiento, consumado ó intentado, el hecho de que el delito se cometiera ó intentara contra la vida del Soberano ó jefe de un estado extranjero ó contra la vida de cualquier individuo de su familia, no podrá considerarse suficiente para sostener que el crimen ó delito era de carácter político ó acto relacionado con crímenes ó delitos de carácter político.

Artículo IV.

Nadie podrá ser juzgado por delito distinto del que motivó su entrega.

Artículo V.

El criminal evadido no será entregado con arreglo á las disposiciones del presente Convenio cuando por el trascurso del tiempo ó por otra causa legal, con arreglo á las leyes del

of which the crime was committed, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

Article VI.

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution out on bail or in custody, for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

Article VII.

If a fugitive criminal claimed by one of the parties hereto shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that state whose demand is first received.

Article VIII.

Under the stipulations of this Convention, neither of the Contracting Parties shall be bound to deliver up its own citizens.

Article IX.

The expense of the arrest, detention, examination, and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

Article X.

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the pro-

punto dentro de cuya jurisdicción se cometió el crimen, el delincuente se halle exento de ser procesado ó castigado por el delito que motiva la demanda de extradición.

Artículo VI.

Si el criminal evadido cuya entrega puede reclamarse con arreglo á las estipulaciones del presente Convenio se halla actualmente enjuiciado, libre confianza ó preso por cualquier delito cometido en el país en que buscó asilo ó haya sido condenado por el mismo, la extradición podrá demorarse hasta tanto que terminen las actuaciones y el criminal sea puesto en libertad con arreglo á derecho.

Artículo VII.

Si el criminal fugado reclamado por una de las Partes Contratantes fuera reclamado á la vez por uno ó mas gobiernos, en virtud de lo dispuesto en tratados, por crímenes cometidos dentro de sus respectivas jurisdicciones, dicho delincuente será entregado con preferencia al que primero haya presentado la demanda.

Artículo VIII.

Ninguna de las Partes Contratantes aquí citadas estará obligada á entregar á sus propios ciudadanos en virtud de las estipulaciones de este Convenio.

Artículo IX.

Los gastos de captura, detención, interrogación y trasporte del acusado serán abonados por el Gobierno que haya presentado la demanda de extradición.

Artículo X.

Todo lo que se encuentre en poder del criminal fugado al tiempo de su captura, ya sea producto del delito

ceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall, so far as practicable, according to the laws of either of the Contracting Parties, be delivered up with his person at the time of the surrender. Nevertheless, the rights of a third party with regard to the articles aforesaid shall be duly respected.

ó que pueda servir de prueba del mismo, será, en cuanto sea posible, con arreglo á las leyes de cualquiera de las Partes Contratantes, entregado con el reo, al tiempo de su extradición. Sin embargo, se respetarán debidamente los derechos de tercero con respecto á los objetos mencionados.

Article XI.

The stipulations of this Convention shall be applicable to all territory wherever situated, belonging to either of the Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the Contracting Parties. In the event of the absence of such agents from the country or its seat of government, or where extradition is sought from territory included in the preceding paragraph other than the United States, requisition may be made by superior consular officers.

It shall be competent for such diplomatic or superior consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of

Artículo XI.

Las especulaciones de este Convenio serán applicables á todos los territorios, donde quiera que estén situados, pertenecientes á cualquiera de las Partes Contratantes ú ocupados y sometidos á la intervención (control) de las mismas mientras dure tal ocupación ó intervención.

Las reclamaciones para la entrega de los fugados á la acción de la justicia serán practicadas por los respectivos agentes diplomáticos de las Partes Contratantes. En la eventualidad de la ausencia de dichos agentes del país ó residencia del Gobierno, ó cuando se pida la extradición de territorios incluidos en el párrafo precedente, que no sean los Estados Unidos, la reclamación podrá hacerse por los funcionarios consulares superiores.

Dichos representantes diplomáticos ó funcionarios consulares superiores serán competentes para pedir y obtener un mandamiento ú órden preventiva de arresto contra la persona cuya entrega se solicita; y en su virtud los jueces y magistrados de ambos Gobiernos tendran respectivamente poder y autoridad, prévia denuncia hecha bajo juramento, para expedir una órden para la captura de la persona inculpada, á fin de que pueda ser llevada ante el juez ó magistrado

criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

Article XII.

If when a person accused shall have been arrested in virtue of the mandate or preliminary warrant of arrest, issued by the competent authority as provided in Article XI hereof, and been brought before a judge or a magistrate to the end that the evidence of his or her guilt may be heard and examined as hereinbefore provided, it shall appear that the mandate or preliminary warrant of arrest has been issued in pursuance of a request or declaration received by telegraph from the Government asking for the extradition, it shall be competent for the judge or magistrate at his discretion to hold the accused for a period not exceeding two months, so that the demanding

para que pueda conocer y tomar en consideración la prueba de su culpabilidad; y si por este exámen se juzgase la prueba suficiente para sostener la acusación, será obligación del juez ó magistrado que lo examine certificar esto mismo á las correspondientes Autoridades ejecutivas, á fin de que pueda expedirse la orden para la entrega del fugado.

Si el criminal evadido hubiera sido condenado por el delito por el que se pide su entrega, se presentará copia debidamente autorizada de la sentencia del tribunal ante el cual fué condenado. Sin embargo, si el evadido se hallase unicamente acusado de un delito, se presentará una copia debidamente autorizada del mandamiento de prisión en el país donde se cometió y de las declaraciones en virtud de las cuales se dictó dicho mandamiento, con la suficiente evidencia ó prueba que se juzgue competente para el caso.

Artículo XII.

Cuando una persona acusada haya sido detenida en virtud del mandamiento ú órden preventiva de arresto dictados por la autoridad competente, segun se dispone en el artículo XI de este Convenio y llevada ante el juez ó magistrado con objeto de examinar las pruebas de su culpabilidad en la forma dispuesta en dicho artículo, y resulte que el mandamiento ú órden preventiva de arresto han sido dictados por virtud de requerimiento ó declaración del Gobierno que pide la extradición recibidos por telégrafo, el juez ó magistrado podrá retener al acusado por un período que no exceda de dos meses para que dicho Gobierno pueda presentar ante el juez ó magistrado la prueba

Government may have opportunity to lay before such judge or magistrate legal evidence of the guilt of the accused, and if at the expiration of said period of two months such legal evidence shall not have been produced before such judge or magistrate, the person arrested shall be released, provided that the examination of the charges preferred against such accused person shall not be actually going on.

legal de la culpabilidad del acusado; si al expirar el período de dos meses no se hubiese presentado ante el juez ó magistrado dicha prueba legal, la persona detenida será puesta en libertad, siempre que á la sazón no esté aun pendiente el exámen de los cargos aducidos contra ella.

Article XIII.

In every case of a request made by either of the two Contracting Parties for the arrest, detention, or extradition of fugitive criminals, the legal officers or fiscal ministry of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided, however, that any officer or officers of the surrendering Government so giving assistance who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

Artículo XIII.

Siempre que se presente una reclamación por cualquiera de las dos Partes Contratantes para el arresto, detención, ó extradición de criminales evadidos, los funcionarios de justicia ó el ministerio fiscal del país en que se sigan los procedimientos de extradición, auxiliarán á los del Gobierno que la pida ante los respectivos jueces y magistrados, por todos los medios legales que estén á su alcance, sin que puedan reclamar, del Gobierno que pida la extradición, remuneración alguna por los servicios prestados; sin embargo, los funcionarios del Gobierno que concede la extradición, que hayan prestado su concurso para la misma y que en el ejercicio ordinario de sus funciones no reciban otro salario ni remuneración que determinados honorarios por los servicios prestados, tendrán derecho á percibir del Gobierno que pida la extradición los honorarios acostumbrados por los actos ó servicios realizados por ellos, en igual forma y proporción que si dichos actos ó servicios hubiesen sido realizados en procedimientos criminales ordinarios, con arreglo á las leyes del país á que dichos funcionarios pertenezcan.

Article XIV.

This Convention shall take effect from the day of the exchange of the

Artículo XIV.

Este Convenio entrará en vigor desde el día del canje de las rati-

ratifications thereof; but either Contracting Party may at any time terminate the same on giving to the other six months' notice of its intention to do so.

The ratifications of the present Convention shall be exchanged at Washington as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the above articles, and have hereunto affixed their seals.

Done in duplicate, at the city of Washington, this 15th day of January, one thousand nine hundred and nine.

ficaciones; pero cualquiera de las Partes Contratantes puede en cualquier tiempo darlo por terminado, avisando á la otra con seis meses de anticipación su intención de hacerlo así.

Las ratificaciones de este Convenio se canjearán en Washington tan pronto como sea posible.

En testimonio de lo cual los respectivos Plenipotenciarios han firmado los precedentes artículos y han puesto sus sellos.

Hecho, por duplicado, en Washington, á 15 de Enero de mil novecientos nueve.

Elihu Root. (Seal.)
Luis Lazo A. (Seal.)

60.

MEXIQUE, SALVADOR.

Traité d'extradition; signé à Guatémala, le 22 janvier 1912.*)

Diario oficial (Estados Unidos Mexicanos) 1912. No. 38.

Los Estados Unidos Mexicanos y la República de El Salvador, juzgando conveniente, para la mejor administración de justicia y la prevención de delitos que puedan ocurrir dentro de sus respectivos territorios y jurisdicciones, la recíproca entrega de los delincuentes, han resuelto concluír un Tratado de Extradición y han nombrado para sus respectivos Plenipotenciarios:

El Presidente de los Estados Unidos Mexicanos, al señor licenciado don Victoriano Salado Alvarez, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos Mexicanos en Guatemala y El Salvador; y,

El Presidente de la República de El Salvador, al doctor don Francisco A. Lima, Encargado de Negocios en Guatemala; quienes, después de haberse comunicado sus plenos poderes y encontrádolos en buena y debida forma, han convenido en los siguientes artículos:

*) Les ratifications ont été échangées à San Salvador, le 27 juillet 1912.

Artículo I.

Las Altas Partes Contratantes se obligan a entregarse recíprocamente los individuos que habiendo sido acusados de alguno de los delitos que se indican en el siguiente artículo o condenados a causa de éstos, por autoridad competente, se hayan refugiado en el territorio del otro Estado.

Cuando el hecho haya tenido lugar fuera del territorio de las Partes Contratantes, podrá darse curso a la demanda de extradición, si las leyes del país requeriente autorizan la persecución de ese delito cometido en el extranjero.

Artículo II.

Darán lugar a la extradición los delitos comunes, con excepción de los indicados en el artículo IV, por los cuales, conforme a las legislaciones de los Estados Contratantes, vigentes al hacerse el requerimiento, les haya sido aplicado o les sea aplicable una pena restrictiva de la libertad personal, superior a un año.

Tendrá también lugar la extradición por la tentativa y por la complicidad en dichos delitos, cuando una y otra hayan sido castigadas o sean punibles con pena restrictiva de la libertad personal, superior a un año, según las leyes de los dos países.

La determinación de la minoridad para los delitos que suponen esa circunstancia, se hará tomando por base la legislación del Estado requeriente.

Artículo III.

La extradición podrá ser concedida, según el prudente arbitrio del Estado requerido, aun por delitos no comprendidos en el artículo precedente, cuando lo permitan las leyes de los Estados contratantes que estén vigentes al hacerse la demanda.

Artículo IV.

No podrá concederse la extradición:

1°. Por delitos de culpa;

2°. Por delitos de imprenta;

3°. Por delitos de orden militar;

4°. Por delitos políticos o por hechos que les sean conexos.

Será, sin embargo, concedida la extradición, aun cuando el culpable alegue un motivo o fin político, si el hecho por el cual ha sido demandada constituye principalmente un delito común.

No se reputará delito político, ni conexo con él, el atentado contra la vida del Jefe o Soberano de uno de los Estados Contratantes y contra los miembros de sus respectivas familias, o contra los Ministros de Estado, cuando ese atentado constituyese el homicidio o envenenamiento en cualquier grado punible.

Artículo V.

Si la persona cuya extradición se solicita se encuentra sujeta a un procedimiento penal o está detenida por haber delinquido en el país donde

se ha refugiado, puede diferirse su entrega hasta la conclusión del proceso o hasta que haya cumplido su condena.

Ninguna acción civil o comercial instaurada contra el individuo cuya extradición se pide, podrá impedir que sea ésta concedida; pero en tal caso, su entrega podrá diferirse si con su ausencia los intereses de sus acreedores se perjudicaren gravemente, a juicio del Gobierno requerido.

Artículo VI.

Podrá ser rehusada la extradición si ha prescrito la acción penal o de la pena, según las leyes de cualquiera de los dos Estados.

Artículo VII.

El individuo cuya extradición se haya concedido, no podrá ser detenido por ningún otro hecho cometido por él antes de su entrega, a menos que se trate de un delito conexo con el que la motivó, y probado con las mismas pruebas en que la demanda de extradición se haya fundado, o bien que ese individuo, habiendo sido puesto en libertad y pudiendo salir del país donde estaba detenido, haya permanecido en él más de dos meses, sin haber usado de esa facultad.

Artículo VIII.

Cuando el individuo, cuya extradición se solicita, haya sido acusado de un delito cuya pena sea la de muerte o esté condenado a causa de él, el Gobierno requerido podrá pedir, al conceder la extradición, que dicha pena sea substituída por la inmediata inferior, mediante un indulto, el cual se concederá de la manera que prescriban las leyes del país requeriente.

Artículo IX.

La demanda de extradición deberá ser presentada por medio de los Agentes Diplomáticos respectivos, y a falta de ellos, por medio de los funcionarios Consulares de las Altas Partes Contratantes.

La extradición será concedida mediante la presentación de una sentencia condenatoria, del mandamiento de prisión, o de cualquiera orden, emanada de autoridad competente, por la cual se consigne al acusado a la justicia penal, siempre que esos documentos contengan las indicaciones necesarias acerca de la naturaleza y gravedad del hecho punible que motivó la demanda.

Los documentos antes indicados serán remitidos originales o en copia certificada, conforme a la legislación del país cuyo Gobierno reclame la extradición, acompañados de una copia del texto de las leyes aplicadas o aplicables al caso, y si fuere posible, de la filiación del individuo reclamado o de alguna otra indicación que sirva para hacer constar la identidad de éste.

Artículo X.

En caso de urgencia, la prisión provisional se podrá conceder en virtud de aviso dado, aún por telégrafo, por uno de los dos Gobiernos o por su representante diplomático al Ministerio de Relaciones Exteriores

del otro, de la existencia de alguno de los documentos indicados en el artículo anterior.

En tal caso, el detenido será puesto en libertad si dentro del término de tres meses contados desde la fecha de su arresto, o dentro del término mayor que pueda legalmente fijar el Gobierno requerido, no se presentaren pruebas suficientes para la extradición.

Artículo XI.

Si el individuo reclamado por una de las Partes Contratantes, lo fuere al mismo tiempo por un tercer Estado, se dará la preferencia a la demanda concerniente al delito que a juicio del Estado requerido sea el más grave.

Si los delitos fueren considerados de igual gravedad, será preferida la demanda de fecha anterior.

Artículo XII.

El dinero y los objetos que se encontrasen en poder del detenido, en el momento de su aprehensión, serán asegurados y entregados al Estado requeriente.

El dinero y los objetos legítimamente poseídos por el detenido, aun cuando se encuentren en poder de otra persona, serán entregados, si después de la aprehensión del mismo acusado llegasen a poder de la autoridad. La entrega no se limitará a las cosas obtenidas mediante el delito por el cual se ha pedido la extradición, sino que comprenderá todo lo que pueda servir como prueba del delito, y se verificará dicha entrega aun cuando la extradición no haya podido efectuarse por la fuga o muerte del delincuente.

Quedarán, no obstante, a salvo los derechos de terceros, no implicados en la acusación, sobre las cosas secuestradas, las que les deberán ser restituídas sin gastos cuando el proceso haya concluído.

Artículo XIII.

Si no se opusiesen motivos graves de orden público, ni se tratase de delitos políticos, será permitida la extradición por vía de tránsito, por los territorios respectivos de los Estados Contratantes, de los presos que no pertenezcan al país de tránsito, con la simple entrega, por la vía diplomática, de alguno de los documentos justificativos, en original o copia auténtica, a que ha hecho referencia el artículo IX de este Tratado.

Tal demanda podrá ser hecha, aun por la vía telegráfica, de un Gobierno a otro, o por medio de sus respectivos Agentes Diplomáticos, dando a conocer el delito porque se ha solicitado la extradición y los documentos en que se fundó la demanda. — El Gobierno requerido ordenará que sea recibido y custodiado el detenido; pero no podrá hacer la entrega sino hasta que le sean presentados los documentos a que se refiere el primer párrafo de este artículo. — Si transcurriesen tres meses sin cumplirse este requisito, el detenido será puesto en libertad.

Artículo XIV.

Si conforme a las leyes vigentes en el Estado al que pertenece el culpable, éste debe ser sometido a un proceso, por infracciones cometidas en el otro Estado, el Gobierno de este último, deberá suministrar los informes y los documentos, entregar los objetos que constituyan el cuerpo del delito, y procurar cualquiera otro esclarecimiento que fuese necesario para la marcha del proceso.

Artículo XV.

Cuando en un juicio penal, no político, uno de los dos Gobiernos juzgue necesaria la audiencia de testigos que se encuentren en el territorio del otro Estado, o la práctica de cualquiera otra diligencia judicial, se enviará, al efecto, por la vía diplomática, un exhorto que deberá ser cumplimentado, observándose las leyes del país requerido.

Artículo XVI.

Cuando se juzgue necesaria la comparecencia de un testigo, el Gobierno del Estado en que resida le invitará a comparecer.

En este caso, le serán anticipadas por el Gobierno requeriente, las cantidades de dinero necesarias para los gastos del viaje de ida y vuelta y de estancia en el lugar en que deba ser examinado.

Ningún testigo, cualquiera que sea su nacionalidad, que, citado o invitado en alguno de los dos países, comparezca voluntariamente ante la autoridad judicial del otro, podrá ser detenido o procesado por hechos o por sentencias anteriores del orden civil o penal ni por complicidad en los hechos que sean objeto de la causa en que figure como testigo.

Artículo XVII.

Cuando en materia penal, no política, deba ser notificada una resolución o una sentencia emanada de las autoridades de uno de los Estados Contratantes a un individuo que se encuentre en el otro Estado, le será notificado el documento, transmitido por la vía diplomática, conforme a lo que determinen las leyes del Estado requerido, y el original de la notificación, debidamente legalizado, se devolverá por la misma vía al Gobierno requeriente.

Artículo XVIII.

Cuando en un juicio penal, no político, instruído en uno de los dos Estados, se considere útil la presentación de diligencias o documentos judiciales, se hará la demanda por la vía diplomática, y se les dará curso, a menos que no lo permitan razones especiales, y, en todo caso, con la obligación de devolverlos.

Artículo XIX.

Los gastos que ocasionen las demandas de extradición y los exhortos se harán por cuenta de los Gobiernos requerientes.

Artículo XX.

Los Gobiernos Contratantes convienen en que las controversias que puedan suscitarse acerca de la interpretación o ejecución de este Tratado, o acerca de las consecuencias de alguna violación de él, se someterán, cuando se hayan agotado los medios de arreglo directo por convenios amistosos, a la decisión de comisiones de arbitraje; y el resultado de éste será obligatorio para ambos Estados.

Los encargados de estas comisiones serán nombrados por los dos Gobiernos de común acuerdo; pero si esto no se lograra, cada Parte nombrará un árbitro, y los dos árbitros elegirán un tercero para el caso de discordia.

El procedimiento arbitral será determinado en cada caso por las Partes Contratantes, y, no siendo así, la misma comisión de árbitros queda autorizada para determinarlo previamente.

Artículo XXI.

El presente Tratado permanecerá en vigor durante cinco años contados desde el día en que se haga el canje de las ratificaciones.

En caso de que ninguna de las Partes Contratantes hubiese notificado a la otra, doce meses antes de que expire dicho período, la intención de hacer cesar sus efectos, el Tratado seguirá siendo obligatorio por otros cinco años, y así sucesivamente de cinco en cinco años.

Esta Convención será ratificada y las ratificaciones serán canjeadas en la ciudad de México o en la de San Salvador lo más pronto que sea posible.

En fe de lo cual los respectivos plenipotenciarios han firmado el presente Tratado y puesto en él sus sellos.

Hecho por duplicado en la ciudad Guatemala, a (22) veintidós días del mes de enero de (1912) mil novecientos doce.

(L. S.) (firmado): *V. Salado Alvarez.*
(L. S.) (firmado): *Francisco A. Lima.*

61.

ALLEMAGNE, LUXEMBOURG.

Traité additionnel au Traité d'extradition du 9 mars 1876;*) signé à Luxembourg, le 6 mai 1912.**)

Deutsches Reichs-Gesetzblatt 1912. No. 51.

Zusatzvertrag zu dem zwischen dem Deutschen Reiche und Luxemburg am 9. März 1876 abgeschlossenen Auslieferungsvertrage. Vom 6. Mai 1912.

Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reichs, und Ihre Königliche Hoheit die Grossherzogin-Regentin, im Namen Ihrer Königlichen Hoheit der Grossherzogin von Luxemburg, haben beschlossen, den zwischen dem Deutschen Reiche und dem Grossherzogtume Luxemburg am 9. März 1876 abgeschlossenen Auslieferungsvertrag in einzelnen Bestimmungen durch einen Zusatzvertrag abzuändern und zu ergänzen, und haben zu diesem Zwecke zu Ihren Bevollmächtigten ernannt:

Seine Majestät der Deutsche Kaiser, König von Preussen:
Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister in Luxemburg, Ulrich Grafen von Schwerin;

Ihre Königliche Hoheit die Grossherzogin-Regentin von Luxemburg:
Höchstihren Staatsminister, Präsidenten der Regierung, Dr. Eyschen.

Die Bevollmächtigten haben sich, nachdem sie einander ihre Vollmachten mitgeteilt und diese in guter und gehöriger Form befunden haben, über folgende Artikel geeinigt:

Artikel 1.

Im Artikel 1 Abs. 1 des Auslieferungsvertrags wird die Nr. 15 dahin geändert:

15. wegen vorsätzlicher Körperverletzung, sofern Tatumstände vorhanden oder Folgen eingetreten sind, die nach dem Rechte des einen oder des anderen Teiles die Strafbarkeit erhöhen.

Artikel 2.

Im Artikel 6 des Auslieferungsvertrags erhält der Abs. 1 am Schlusse folgende Fassung:

..... zur Untersuchung gezogen und bestraft werden, es sei denn, dass sie das Gebiet des bezeichneten Staates innerhalb einer Frist von dreissig Tagen nach Wiedererlangung ihrer Freiheit nicht verlassen hat oder dass sie, nachdem sie es verlassen hatte, dahin zurückkehrt oder von neuem dahin ausgeliefert wird.

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*) V. N. R. G. 2. s. II, p. 242.

**) Les ratifications ont été échangées à Luxembourg, le 23 août 1912.

Artikel 3.

Im Artikel 9 des Auslieferungsvertrags treten an die Stelle der Abs. 2, 3 folgende Bestimmungen:

Diese Mitteilung kann in kürzester Weise, selbst auf telegraphischem Wege erfolgen.

Der vorläufig Festgenommene ist, falls seine Haft nicht aus einem anderen Grunde fortzudauern hat, wieder auf freien Fuss zu setzen, wenn nicht binnen drei Wochen nach dem Tage seiner Festnahme der Auslieferungsantrag unter Vorlegung der erforderlichen Schriftstücke auf diplomatischem Wege gestellt worden ist.

Artikel 4.

Im Artikel 13 des Auslieferungsvertrags erhält der Abs. 1 folgende Fassung:

Wenn in einem Strafverfahren wegen Handlungen, welche nicht zu den politischen Verbrechen und Vergehen gehören, eine Justizbehörde eines der beiden vertragschliessenden Teile die Vernehmung von Zeugen, welche sich im Gebiete des anderen Teiles aufhalten, oder irgendeine andere Untersuchungshandlung (mit Einschluss von Zustellungen) für notwendig erachten sollte, so wird ein entsprechendes Ersuchungsschreiben auf diplomatischem Wege mitgeteilt oder von den Gerichtsbehörden des einen Teiles unmittelbar an die Gerichtsbehörden des anderen Teiles gerichtet werden. Solchen Ersuchungsschreiben wird nach Massgabe der Gesetzgebung des Landes, wo der Zeuge vernommen oder der Akt vorgenommen werden soll, Folge gegeben werden. Die Ausführung des Antrags kann verweigert werden, wenn die Untersuchung eine Handlung zum Gegenstande hat, welche nach den Gesetzen des ersuchten Teiles nicht strafbar ist, oder wenn es sich um rein fiskalische Vergehen handelt, oder endlich, wenn sich die Untersuchung gegen einen Angehörigen des ersuchten Teiles richtet, der sich nicht im Gebiete des ersuchenden Teiles befindet.

Artikel 5.

Der gegenwärtige Zusatzvertrag soll ratifiziert werden.

Er soll 10 Tage nach dem Austausch der Ratifikationsurkunden, der sobald als möglich erfolgen wird, in Kraft treten und soll dieselbe Gültigkeit und Dauer haben, wie der Auslieferungsvertrag vom 9. März 1876.

Zu Urkund dessen haben die beiderseitigen Bevollmächtigten ihn vollzogen und mit ihren Siegeln versehen.

Geschehen in Luxemburg in doppelter Ausfertigung am 6. Mai 1912.

(L. S.) *Ulrich Graf von Schwerin.*
(L. S.) *Dr. Eyschen.*

62.

ETATS-UNIS D'AMÉRIQUE, NICARAGUA.

Convention sur la naturalisation des émigrés; signée à Managua, le 7 décembre 1908, suivie d'une Convention supplémentaire, signée à Managua, le 17 juin 1911.*)

Treaty Series, No. 566, 567.

Convención sobre naturalización entre los Estados Unidos de América y Nicaragua 1908.

The President of the United States of America and the President of the Republic of Nicaragua, desiring to regulate the citizenship of those persons who emigrate from the United States of America to Nicaragua, and from Nicaragua to the United States of America, have resolved to conclude a Convention on this subject and for that purpose have appointed their Plenipotentiaries to conclude a Convention, that is to say: the President of the United States of America, John Hanaford Gregory Jr., Chargé d'Affaires ad Interim of the United States at Managua, and the President of Nicaragua, Rodolfo Espinosa R., Minister for Foreign Affairs, who having exchanged their full powers, found in good and due form have agreed to and signed the following articles.

Article I.

1. Citizens of the United States who have been or may be voluntarily

El Presidente de los Estados Unidos de América y el Presidente de la República de Nicaragua, deseosos de fijar reglas relativamente á la ciudadanía de las personas que emigran de los Estados Unidos de América á Nicaragua ó de Nicaragua á los Estados Unidos de América, han resuelto concluir una Convención sobre este particular, y con tal objeto han nombrado por sus Plenipotenciarios, es á saber:

El Presidente de los Estados Unidos de América á John Hanaford Gregory Jr., Encargado de Negocios ad interim de los Estados Unidos en Managua, y el Presidente de la República de Nicaragua al Doctor Rodolfo Espinosa R., Ministro de Relaciones Exteriores, quienes habiéndose cambiado sus plenos poderes que encontraron en buena y debida forma, han convenido y firmado los siguientes artículos.

Artículo I.

1. Los ciudadanos de los Estados Unidos que de su propia voluntad se

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*) Les instruments ratifiant les deux conventions ont été échangés à Managua, le 28 mars 1912.

naturalized in Nicaragua in conformity with the laws thereof, shall be considered and treated by the Government of the United States as citizens of Nicaragua.

2. Reciprocally, citizens of Nicaragua who have been or may be voluntarily naturalized in the United States in conformity with the laws thereof, shall be considered and treated by the Government of Nicaragua as citizens of the United States.

Article II.

1. If a citizen of the United States naturalized in Nicaragua renews his residence in the United States without the intention to return to Nicaragua, it shall be considered that he has renounced his citizenship in Nicaragua.

2. Reciprocally, if a citizen of Nicaragua naturalized in the United States renews his residence in Nicaragua without intention to return to the United States it shall be deemed that he has renounced his citizenship in the United States.

3. The intention not to return shall be deemed to exist when a person naturalized in one of the two countries resides for more than two years continuously in the other country; however, such presumption may be destroyed by evidence to the contrary.

Article III.

A mere declaration of intention to become naturalized in either country shall not, in either country, have the effect of legally acquired citizenship.

Article IV.

Citizens naturalized in one of the two countries and returning to the

hayan naturalizado ó se naturalicen en Nicaragua conforme á las leyes de esta nación serán considerados y tratados por el Gobierno de los Estados Unidos como ciudadanos de Nicaragua.

2. Recíprocamente los ciudadanos de Nicaragua que voluntariamente se hayan naturalizado ó se naturalicen en los Estados Unidos conforme á las leyes de esta nación, serán considerados y tratados por el Gobierno de Nicaragua como ciudadanos de los Estados Unidos.

Artículo II.

1. Si un ciudadano de los Estados Unidos naturalizado en Nicaragua, restableciere su residencia en los Estados Unidos, sin intención de volver á Nicaragua, se reputará que ha renunciado á su ciudadanía en Nicaragua.

2. Recíprocamente, si un nicaraguense naturalizado en los Estados Unidos de América restableciere su residencia en Nicaragua sin intención de volver á los Estados Unidos, se reputará que ha renunciado su ciudadanía en los Estados Unidos.

3. Se juzgará que existe la intención de no volver cuando la persona naturalizada en uno de los dos países residiere más de dos años continuos en el otro país; pero esta circunstancia no excluye la prueba en contrario.

Artículo III.

La simple declaración de la intención de naturalizarse, en cualquiera de los dos países, no surtirá en ninguno de ellos el mismo efecto que la ciudadanía legalmente adquirida.

Artículo IV.

Los ciudadanos de cualquiera de los dos países, naturalizados en el otro,

country of their origin shall be subject to trial and punishment in the latter for any punishable act committed before their emigration, but not for the act of emigrating itself, always excepting cases of limitation or any other remission of liability.

y que regresen al de su origen, estarán sujetos en este último á juicio y castigo por todo acto punible cometido antes de su emigración; pero en ningún caso por la emigración misma. Sin embargo quedan á salvo la prescripción y cualquiera otro modo de remisión de responsabilidad.

Article V.

It is agreed between both parties to define the word „citizenship", as used in this Convention, to mean the status of a person possessing the nationality of the United States or Nicaragua.

Artículo V.

Para los efectos de esta Convención las dos partes contratantes convienen en definir la palabra „ciudadano," usada en ella, por la persona que posee la nacionalidad de los Estados Unidos ó de Nicaragua.

Article VI.

The present Convention shall be in force for a period of ten years from the date of the exchange of ratifications. If, one year before the expiration of this period, neither of the parties gives notice to the other that it shall expire, it shall continue in force until twelve months after such notice is given.

Artículo VI.

La presente Convención durará en vigor diez años á contar del canje de las ratificaciones. Si un año antes de concluir este período ninguna de las partes notificare á la otra su intención de terminarla continuará en vigor un año más, desde la fecha de esa notificación.

Article VII.

The present Convention shall be ratified constitutionally by each country, and the ratifications shall be exchanged at Washington or at Managua within two years from date at the latest.

Done in Managua the seventh of December one thousand nine hundred and eight, sealed and signed in two copies of same tenor in English and Spanish.

John Hanaford Gregory Jr. (seal.)

Artículo VII.

La presente Convención será ratificada constitucionalmente por cada uno de los dos países contratantes, y las ratificaciones canjeadas en Managua ó en Washington dentro de dos años de esta fecha á más tardar.

Hecha en Managua, á siete de Diciembre de mil novecientos ocho, sellada con nuestros sellos y firmada de nuestra mano, en dos tantos de un tenor en inglés y en castellano.

Rodolfo Espinosa R. (seal.)

Convención sobre Naturalización entre Nicaragua y los Estados Unidos de América.

El Presidente de los Estados Unidos de América y el Presidente de la República de Nicaragua, considerando conveniente prolongar el período en que, según el artículo VII de la Convención de Naturalización firmada por los respectivos plenipotenciarios de los Estados Unidos y Nicaragua en Managua el 7 de Diciembre de 1908, se verificará el canje de las ratificaciones de dicha Convención, han nombrado con ese objeto sus respectivos plenipotenciarios, á saber:

El Presidente de los Estados Unidos de América, á Elliott Northcott, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América; y

El Presidente de la República de Nicaragua, á Tomás Martinez, Ministro de Relaciones Exteriores de la República de Nicaragua,

Quienes, habiéndose comunicado sus respectivos plenos poderes, encontrados estos en buena y debida forma, han convenido en el siguiente artículo adicional y reformatorio que se considerará como parte de dicha Convención:

Artículo Unico.

Las respectivas ratificaciones de dicha Convención se canjearán en Washington ó en Managua tan pronto como sea posible y dentro de dos años á partir del 7 de Diciembre de 1910.

En fé de lo cual los respectivos plenipotenciarios han firmado la presente Convención Suplementaria y Reformatoria, por duplicado, en los idiomas inglés y español, y la han sellado con sus sellos.

The President of the United States of America and the President of the Republic of Nicaragua, considering it expedient to prolong the period in which, by article VII of the Naturalization Convention signed by the respective plenipotentiaries of the United States and Nicaragua at Managua on December 7, 1908, the exchange of the ratifications of the said Convention shall be effected, have for that purpose appointed their respective plenipotentiaries, namely:

The President of the United States of America, Elliott Northcott, Envoy Extraordinary and Minister Plenipotentiary of the United States of America; and

The President of the Republic of Nicaragua, Tomás Martinez, Minister for Foreign Affairs of the Republic of Nicaragua,

Who, after having communicated each to the other their respective full powers, which were found to be in good and due form, have agreed to the following additional and amendatory article to be taken as a part of the said Convention:

Sole Article.

The respective ratifications of the said Convention shall be exchanged at Washington or at Managua as soon as possible and within two years from December 7, 1910.

In faith whereof the respective plenipotentiaries have signed the present Supplementary and Amendatory Convention in duplicate in the English and Spanish languages and have hereunto affixed their seals.

Hecha en Managua el diez-y-siete de Junio, en el año de Nuestro Señor de mil novecientos once.

Tomás Martinez. (Seal.)
Elliott Northcott. (Seal.)

Done at Managua this seventeenth day of June, in the year of our Lord one thousand nine hundred and eleven.

Elliott Northcott. (Seal.)
Tomás Martinez. (Seal.)

63.

ETATS-UNIS D'AMÉRIQUE, COSTA RICA.

Convention concernant la naturalisation des émigrés; signée à San José, le 10 juin 1911.*)

Treaty Series, No. 570.

Convention

To fix the condition of naturalized citizens who renew their residence in country of their origin

The President of the United States of America and the President of the Republic of Costa Rica, desiring to regulate the citizenship of those persons who emigrate from the United States of America to Costa Rica and from Costa Rica to the United States of America, have resolved to conclude a convention on this subject and for that purpose have appointed their plenipotentiaries to conclude a convention, that is to say: the President of the United States of America, G. L. Monroe, Jr. Chargé d'Affaires ad interim of the United States at Costa Rica, and the President of Costa Rica señor Licenciado don Manuel Castro Quesada, Minister for For-

Convención.

Para Fijar la Condición de los Ciudadanos Naturalizados que Renuevan su Residencia en el País de su Origen

El Presidente de la República de Costa Rica y el Presidente de los Estados Unidos de América, deseando reglamentar la ciudadanía de las personas que emigran de Costa Rica para los Estados Unidos de América y de los Estados Unidos de América para Costa Rica, han resuelto celebrar una Convención á tal respecto; y con tal fin han nombrado sus Plenipotenciarios respectivos, á saber: el Presidente de la República de Costa Rica, al señor Licenciado don Manuel Castro Quesada, Secretario de Estado en el Despacho de Relaciones Exteriores, y el Presidente de los Estados Unidos de América, al señor G. L. Monroe Jr., Encargado de

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*) Les ratifications ont été échangées à San José, le 9 mai 1912.

eign Affairs. who have agreed to and signed the following articles:

Negocios ad ínterim de los Estados Unidos de América en Costa Rica, quienes han ajustado y firmado los artículos siguientes:

Article I.

Citizens of the United States who may or shall have been naturalized in Costa Rica, upon their own application or by their own consent, will be considered by the United States as citizens of the Republic of Costa Rica. Reciprocally, Costa Ricans who may or shall have been naturalized in the United States upon their own application or with their own consent, will be considered by the Republic of Costa Rica citizens of the United States.

Artículo I.

Los ciudadanos costarricenses que se hayan naturalizado ó se naturalicen en los Estados Unidos, á su solicitud ó por su consentimiento propio, serán considerados por la República de Costa Rica como ciudadanos de los Estados Unidos. Recíprocamente, los ciudadanos de los Estados Unidos que á su solicitud, ó por su consentimiento propio, se hayan naturalizado ó se naturalicen en Costa Rica, serán considerados por los Estados Unidos como ciudadanos de Costa Rica.

Article II.

If a Costa Rican, naturalized in the United States of America, renews his residence in Costa Rica without intent to return to the United States, he may be held to have renounced his naturalization in the United States. Reciprocally, if a citizen of the United States, naturalized in Costa Rica, renews his residence in the United States, without intent to return to Costa Rica, he may be presumed to have renounced his naturalization in Costa Rica.

The intent not to return may be held to exist when the person naturalized in the one country, resides more than two years in the other country, but this presumption may be destroyed by evidence to the contrary.

Artículo II.

Si un costarricense naturalizado en los Estados Unidos de América, renueva su residencia en Costa Rica, sin intención de volver á los Estados Unidos, se considerará que ha renunciado á su naturalización en los Estados Unidos. Recíprocamente, si un ciudadano de los Estados Unidos, naturalizado en Costa Rica, renueva su residencia en los Estados Unidos, sin intención de volver á Costa Rica, se presumirá que ha renunciado su naturalización en Costa Rica.

La intención de no volver se entenderá que existe cuando la persona naturalizada en uno de los dos países resida por más de dos años en el otro país, mas esta presunción puede destruirse por prueba contraria.

Article III.

It is mutually agreed that the definition of the word „citizen“ as used in this convention, shall be held to mean a person to whom

Artículo III.

Es convenido mutuamente que la definición de la palabra Ciudadano, usada en esta Convención, se entenderá significar una persona ligada

nationality of the United States or Costa Rica attaches.

Article IV.

A recognized citizen of the one party, returning to the territory of the other, remains liable to trial and legal punishment for an action punishable by the laws of his original country and committed before his emigration; but not for the emigration itself, saving always the limitation established by the laws of his original country, and any other remission of liability to punishment.

Article V.

The declaration of intention to become a citizen of the one or the other country has not for either party the effect of naturalization.

Article VI.

The present convention shall go into effect immediately on the exchange of ratifications, and in the event of either party giving the other notice of its intention to terminate the convention it shall continue to be in effect for one year more, to count from the date of such notice.

The present convention shall be submitted to the approval and ratification of the respective appropriate authorities of each of the contracting parties, and the ratifications shall be exchanged at San José or Washington within twenty-four months of the date hereof.

Signed at the city of San José on the 10th day of June one thousand nine hundred and eleven.

por la nacionalidad de Costa Rica ó la de los Estados Unidos.

Artículo IV.

El ciudadano reconocido por una de las partes, que vuelve al territorio de la otra, queda sujeto al juzgamiento y castigo legal por cualquier hecho punible que haya cometido antes de su emigración, según la ley de su país original, mas no por el hecho de la emigración misma; salvo siempre las limitaciones establecidas por las leyes del país de origen y cualquiera otra remisión de la responsabilidad penal.

Artículo V.

La declaración de la intención de hacerse ciudadano del uno ó del otro país, no produce para una ú otra parte el efecto de la naturalización.

Artículo VI.

La presente Convención comenzará á regir inmediamente después de canjeadas las ratificaciones, y en el evento de que una ú otra parte dé aviso á la otra de su intención de poner fin á la Convención, continuará en vigor por un año más, á contar desde la fecha de tal aviso.

La presente Convención será sometida á la aprobación y ratificación de las respectivas autoridades competentes de cada una de las partes contratantes, y las ratificaciones serán canjeadas en San José ó en Wáshington, dentro de vienti-cuatro meses de la fecha de esta Convención.

Firmada en la ciudad de San José, á los diez días del mes de Junio de mil novecientos once.

(Seal.) *G. L. Monroe Jr.*
(Seal.) *Manuel Castro Quesada.*

64.

CHINE.

Loi sur l'acquisition et la perte de la nationalité; du 28 mars 1909.

Copie officielle.

Traduction allemande.

Gesetz betreffend den Erwerb und Verlust der Reichsangehörigkeit für das Kaiserreich China, vom 28. März 1909.

Abschnitt I.

Natürliche Reichsangehörigkeit.

§ 1.

Folgende Personen besitzen die chinesische Reichsangehörigkeit, gleichviel ob sie auf chinesischem Staatsgebiet geboren sind oder nicht:

1. Personen, deren Vater zur Zeit ihrer Geburt Chinese war;
2. Personen, deren Vater zur Zeit ihrer Geburt verstorben, zur Zeit seines Todes aber Chinese gewesen war;
3. Personen, deren Mutter Chinesin ist und deren Vater nicht festgestellt werden kann oder keine Staatsangehörigkeit besitzt.

§ 2.

Wenn beide Eltern nicht festgestellt werden können oder keine Staatsangehörigkeit besitzen, so besitzen deren in China geborene Kinder gleichfalls die chinesische Staatsangehörigkeit.

Das gleiche gilt, wenn der Geburtsort nicht festgestellt werden kann, und für Kinder, die in China ausgesetzt worden sind.

Abschnitt II.

Erwerb der Reichsangehörigkeit.

§ 3.

Ausländer, welche die chinesische Reichsangehörigkeit zu erwerben wünschen, dürfen auf ihren Antrag als Reichsangehörige aufgenommen werden, wenn sie die nachstehenden Bedingungen erfüllen:

1. wenn sie zehn Jahre oder länger ihren Wohnsitz ununterbrochen in China gehabt haben;
2. wenn sie das 20. Lebensjahr vollendet haben und nach dem Rechte ihres Heimatstaates geschäftsfähig sind;

3. wenn sie einen guten Ruf haben und einen achtbaren Lebenswandel führen;
4. wenn sie ausreichende Unterhaltungsmittel haben oder Fähigkeiten oder Kenntnisse besitzen, die ihnen die wirtschaftliche Selbständigkeit ermöglichen;
5. wenn nach der Gesetzgebung ihres Heimatstaates die frühere Staatsangehörigkeit mit dem Erwerb der Reichsangehörigkeit erlischt.

Personen ohne Staatsangehörigkeit, welche die chinesische Reichsangehörigkeit zu erwerben wünschen, müssen das 20. Lebensjahr vollendet haben und den Erfordernissen zu Ziffer 1, 3 und 4 genügen.

§ 4.

Ausländer und Personen, welche keine Staatsangehörigkeit besitzen, können, wenn sie sich um China besondere Verdienste erworben haben, auf gemeinsamen Antrag des Waiwupu und des Ministeriums der Inneren Verwaltung die Reichsangehörigkeit durch Kaiserliches Reskript besonders verliehen erhalten, auch wenn sie die Bedingungen zu Ziffer 1-4 des vorigen Paragraphen nicht erfüllen.

§ 5.

Ausländer und Personen, welche keine Staatsangehörigkeit besitzen, erwerben die Reichsangehörigkeit, wenn sie unter eine der folgenden Klassen fallen:

1. Frauenspersonen, welche Chinesen heiraten;
2. Personen, deren Adoptivvater Chinese ist, wenn sie bei ihm wohnen;
3. uneheliche Kinder, deren Vater Chinese ist, wenn der Vater sie anerkannt hat;
4. uneheliche Kinder, deren Mutter Chinesin ist, wenn der Vater sie nicht anerkennt, die Mutter sie aber anerkannt hat.

Nach Ziffer 1 kann die Reichsangehörigkeit nur erworben werden, wenn eine ordnungsmäßige Heiratsurkunde beigebracht wird. Nach Ziffer 2, 3 und 4 kann die Reichsangehörigkeit nur erworben werden, wenn die betreffende Person nach den Gesetzen ihres Heimatsstaates noch nicht grossjährig oder eine unverheiratete Frauensperson ist.

§ 6.

Ehefrauen und minderjährige Kinder erwerben zusammen mit ihrem Ehemanne und Vater die Reichsangehörigkeit, wenn dieser sie erwirbt. Personen, welche nach dem Rechte ihres Heimatsstaates bei dieser Gelegenheit nicht die alte Staatsangehörigkeit verlieren, fallen nicht unter diese Bestimmung.

Wünscht eine solche Ehefrau selbst die Reichsangehörigkeit zu erwerben oder wünscht jemand, dass ein noch nicht grossjähriges Kind von ihm die Reichsangehörigkeit erwirbt, so kann der Antrag auf Verleihung der Reichsangehörigkeit genehmigt werden, auch wenn Bedingungen des § 3, Ziffer 1—4 nicht erfüllt sind.

Grossjährige Kinder von Personen, welche die Reichsangehörigkeit erwerben, dürfen, wenn sie zur Zeit in China wohnen, gleichfalls die Verleihung der Reichsangehörigkeit beantragen, auch wenn sie Bedingungen des § 3, Ziffer 1—4 nicht erfüllen.

§ 7.

Verheiratete Frauen dürfen nicht für sich allein die Verleihung der Reichsangehörigkeit beantragen.

§ 8.

Alle Personen, welche als Reichsangehörige aufgenommen werden, können keins der folgenden Ämter bekleiden:

1. Ämter im Staatsrat und Kaiserlichen Haushalt sowie Zivilstellungen in Peking und den Provinzen vom 4. Range an aufwärts;
2. alle Arten von Offiziersstellen und Stellen im Heere;
3. Mandate im Ober- oder Unterhause des Parlaments oder in einem Provinzialausschusse.

Personen, denen die Reichsangehörigkeit durch Kaiserliches Reskript besonders verliehen worden ist, unterliegen diesen Beschränkungen auf die Dauer von 10 Jahren, vom Tage des Erwerbs der Reichsangehörigkeit an gerechnet. Für andere Personen, welche die Reichsangehörigkeit erworben haben, kann das Ministerium der Inneren Verwaltung 20 Jahre nach dem Tage des Erwerbs der Reichsangehörigkeit Ausnahmen beim Throne beantragen.

§ 9.

Personen, welche die Verleihung der Reichsangehörigkeit beantragen, müssen ausdrücklich eine schriftliche Erklärung dahin abgeben, dass sie nach Erwerb der Reichsangehörigkeit auf ewige Zeiten die chinesischen Gesetze befolgen werden und auf alle Rechte ihres Heimatsstaates verzichten. Diese Erklärung ist von zwei angesehenen Mitgliedern der Gentry ihres Wohnsitzes als Bürgen mit zu unterzeichnen.

§ 10.

Alle Personen, welche die Verleihung der Reichsangehörigkeit beantragen, müssen einen entsprechenden Antrag bei der Lokalbehörde einreichen, welche denselben an die vorgesetzten Behörden zur Vorlage beim Ministerium der Inneren Verwaltung weiterreicht. Genehmigt das Ministerium den Antrag, so erlässt es eine Bekanntmachung und erteilt ein Zertifikat als Beweisurkunde.

Der Erwerb der Reichsangehörigkeit zählt vom Tage der Ausstellung des Zertifikates.

Personen, welche die Reichsangehörigkeit nach § 5 erwerben, müssen einen entsprechenden Antrag bei der Lokalbehörde einreichen, welche denselben an die vorgesetzten Behörden zur Vorlage beim Ministerium der Inneren Verwaltung weiterreicht. Im Auslande ist dieser Antrag beim Konsul zur Weitergabe an den Gesandten oder direkt beim Gesandten zu stellen, der ihn dem Ministerium übermittelt.

Abschnitt III.

Verlust der Reichsangehörigkeit.

§ 11.

Chinesen, welche eine ausländische Staatsangehörigkeit zu erwerben wünschen, müssen vorher ihre Entlassung aus der Reichsangehörigkeit nachsuchen.

§ 12.

Keinem Chinesen darf die Entlassung aus der Reichsangehörigkeit genehmigt werden, wenn einer der folgenden Umstände vorliegt:

1. noch nicht abgeschlossene Zivil- und Strafprozesse;
2. militärische Verpflichtungen irgendwelcher Art;
3. Rückstände fälliger Steuern und Abgaben;
4. Beamtenrang oder vom Staat verliehene Würden.

§ 13.

Chinesen, welche unter eine der folgenden Klassen von Personen fallen, verlieren die Reichsangehörigkeit:

1. Frauenspersonen, welche Ausländer heiraten;
2. Personen, deren Adoptivvater Ausländer ist, wenn sie bei ihm wohnen;
3. uneheliche Kinder, deren Vater Ausländer ist, wenn der Vater sie anerkannt hat;
4. uneheliche Kinder, deren Mutter Ausländerin ist, wenn der Vater sie nicht anerkennt, die Mutter sie aber anerkannt hat.

Nach Ziffer 1 kann die Reichsangehörigkeit nur verloren werden, wenn eine ordnungsmässige Heiratsurkunde beigebracht wird. Wenn nach dem Rechte des Heimatsstaates die ursprüngliche Staatsangehörigkeit nicht infolge der Eheschliessung verloren wird, bleibt die chinesische Reichsangehörigkeit bestehen. Nach Ziffer 2, 3 und 4 kann die Reichsangehörigkeit nur verloren werden, wenn die betreffende Person nach den chinesischen Gesetzen noch nicht grossjährig oder eine unverheiratete Frauensperson ist.

§ 14.

Verlieren Männer die Reichsangehörigkeit, so verlieren ihre Ehefrauen und minderjährigen Kinder gleichzeitig die Reichsangehörigkeit.

Wünscht die Ehefrau die Reichsangehörigkeit für ihre Person zu behalten, oder wünscht jemand, der die Reichsangehörigkeit aufgibt, dass minderjährige Kinder von ihm dieselbe behalten, so darf ein ausdrücklicher Antrag auf Beibehaltung der chinesischen Reichsangehörigkeit genehmigt werden.

§ 15.

Verheiratete Frauen dürfen nicht für sich allein die Entlassung aus der Reichsangehörigkeit beantragen.

Wer nach den chinesischen Gesetzen noch nicht grossjährig oder nicht geschäftsfähig ist, darf gleichfalls nicht selber die Entlassung aus der Reichsangehörigkeit beantragen.

§ 16.

Chinesen, welche die Reichsangehörigkeit aufgeben, sind von allen besonderen Vorrechten ausgeschlossen, welche Chinesen im Inlande geniessen.

§ 17.

Wer seine Entlassung aus der Reichsangehörigkeit beantragt, muss selber in einer schriftlichen Erklärung ausdrücklich betonen, dass keine Umstände des § 12 vorliegen und dass er keine unentdeckt gebliebenen Straftaten begangen hat.

§ 18.

Wer seine Entlassung aus der Reichsangehörigkeit beantragt, muss einen entsprechenden Antrag bei der Lokalbehörde einreichen, welche denselben an die vorgesetzten Behörden zur Vorlage beim Ministerium der Inneren Verwaltung weiterreicht. Genehmigt das Ministerium den Antrag, so erlässt es eine Bekanntmachung. Im Auslande ist der Antrag beim Konsul zur Weitergabe an den Gesandten oder direkt beim Gesandten zu stellen, der ihn dem Ministerium zur weiteren Veranlassung übermittelt.

Die Reichsangehörigkeit gilt als erloschen vom Tage der Genehmigung und Bekanntmachung ab. Ist kein Antrag eingereicht worden oder hat das Ministerium keine Genehmigung erteilt, so bleibt die chinesische Reichsangehörigkeit unter allen Umständen bestehen. Auf Personen, welche die Reichsangehörigkeit nach § 13 verlieren, finden die Bestimmungen des § 10 Absatz 3 entsprechende Anwendung.

Abschnitt IV.

Wiedererwerb der Reichsangehörigkeit.

§ 19.

Frauenspersonen, welche die Reichsangehörigkeit infolge einer Ehe mit einem Ausländer verloren haben, können nach Scheidung der Ehe oder nach dem Tode des Mannes die Reichsangehörigkeit auf Antrag wiedererwerben.

§ 20.

Ehefrauen von Personen, welche die Reichsangehörigkeit verloren haben, können nach Scheidung der Ehe oder nach dem Tode des Mannes die Reichsangehörigkeit auf Antrag wiedererwerben, desgleichen minderjährige Kinder solcher Personen, sobald sie grossjährig geworden sind.

§ 21.

Wer nach genehmigter Aufgabe der Reichsangehörigkeit seinen Wohnsitz wieder drei Jahre oder länger ununterbrochen in China behält und die Bedingungen zu § 3 Ziffer 3 und 4 erfüllt, kann die Reichsange-

hörigkeit auf Antrag wiedererwerben. Auf Ausländer, welche nach erfolgter Naturalisation die Reichsangehörigkeit wieder aufgegeben haben, findet diese Bestimmung keine Anwendung.

§ 22.

Anträge auf Wiedererwerbung der Reichsangehörigkeit bedürfen einer schriftlichen Bürgschaftserklärung zweier angesehener Mitglieder der Gentry der Heimatsprovinz und werden gemäss den Bestimmungen des § 10 Absatz 1 erledigt. Im Auslande ist die Bürgschaftserklärung von zwei in dem betreffenden Lande ansässigen chinesischen Kaufleuten beizubringen und der Antrag beim Konsul zur Weitergabe an den Gesandten oder beim Gesandten direkt zu stellen, der ihn dem Ministerium zur weiteren Veranlassung übermittelt.

Die Reichsangehörigkeit gilt vom Tage der Genehmigung und Bekanntmachung an für wiedererworben.

§ 23.

Personen, welche die Reichsangehörigkeit wiedererworben haben, dürfen die in § 8 aufgeführten Ämter erst nach Ablauf von fünf Jahren bekleiden. Ergeht ein besonderes Kaiserliches Reskript, so findet diese Bestimmung keine Anwendung.

§ 24.

Dieses Gesetz tritt mit dem Tage seiner Vollziehung durch Kaiserliches Reskript in Kraft.

Ausführungsbestimmungen.

§ 1.

Chinesen, welche vor dem Inkrafttreten dieses Gesetzes ohne Genehmigung des Ministeriums die Reichsangehörigkeit aufgegeben und eine ausländische Staatsangehörigkeit erworben haben, müssen sich, wenn sie von ihrem Wohnsitz im Auslande nach China kommen, im ersten Hafen, den sie erreichen, an den Konsul der betreffenden Nation wenden, damit dieser den chinesischen Lokalbehörden das Datum des Erwerbes der fraglichen Staatsangehörigkeit in einer Note mitteilt. Damit gilt dann die Reichsangehörigkeit als verloren.

§ 2.

Chinesen, welche vor dem Inkrafttreten dieses Gesetzes ohne Genehmigung des Ministeriums die Reichsangehörigkeit aufgegeben und eine ausländische Staatsangehörigkeit erworben haben, müssen sich, wenn sie in einer fremden Niederlassung eines chinesischen Vertragshafens wohnen, binnen eines Jahres bei den chinesischen Lokalbehörden melden, welche den Konsul der betreffenden Nation in einer Note um Feststellung des Datums ersuchen, an welchem die fragliche Staatsangehörigkeit erworben worden ist. Damit gilt dann die Reichsangehörigkeit als verloren.

§ 3.

Wer nicht den Verlust der Reichsangehörigkeit gemäss den Bestimmungen der beiden vorstehenden Paragraphen nachweist, wird innerhalb Chinas so angesehen, als ob er die chinesische Reichsangehörigkeit noch besässe.

§ 4.

Chinesen, welche vor dem Inkrafttreten dieses Gesetzes ohne Genehmigung des Ministeriums die Reichsangehörigkeit aufgegeben und eine ausländische Staatsangehörigkeit erworben haben, gelten, wenn sie ihren Wohnsitz und Beruf im Inlande haben oder Immobilien kaufen oder erben und den Chinesen vorbehaltene besondere Vorrechte geniessen, weiter als chinesische Reichsangehörige.

§ 5.

Chinesen, welche vor dem Inkrafttreten dieses Gesetzes ohne Genehmigung des Ministeriums die Reichsangehörigkeit aufgegeben und eine ausländische Staatsangehörigkeit erworben haben, gelten, wenn sie chinesische Beamte sind, weiter als chinesische Reichsangehörige.

§ 6.

Chinesen, welche vor dem Inkrafttreten dieses Gesetzes eine ausländische Staatsangehörigkeit erworben haben, können gelegentlich den Wiedererwerb der Reichsangehörigkeit nach § 22 des Gesetzes beantragen. Die Bestimmungen der §§ 21 und 23 finden keine Anwendung.

§ 7.

Chinesen, welche vor dem Inkrafttreten dieses Gesetzes lange Zeit im Auslande gelebt kaben, gelten, wenn sie die chinesische Reichsangehörigkeit behalten möchten, weiter als Reichsangehörige.

§ 8.

Wer nach diesem Gesetze die Reichsangehörigkeit verloren hat, darf nicht länger seinen Wohnsitz im Inlande haben; Zuwiderhandelnde werden unverzüglich ausgewiesen. Vor dem Verlust der Reichsangehörigkeit im Inlande erworbene Immobilien und Chinesen vorbehaltene besondere Vorrechte müssen binnen eines Jahres vom Tage des Verlustes der Reichsangehörigkeit an gänzlich veräussert werden. Was nach Ablauf dieser Frist nicht veräussert worden ist, wird eingezogen.

§ 9.

Hat jemand auf Grund dieses Gesetzes die Reichsangehörigkeit verloren und stellen sich nach dem Verlust derselben Umstände des § 12 heraus oder werden begangene Straftaten entdeckt, so gilt die erteilte Genehmigung zur Aufgabe der Reichsangehörigkeit als nicht erfolgt und der Betreffende wird von China nach Massgabe des Gesetzes bestraft.

§ 10.

Hat jemand, der auf Grund dieses Gesetzes die Reichsangehörigkeit verloren hat, falsche Angaben über den Erwerb einer fremden Staats-

angehörigkeit gemacht und die Staatsangehörigkeit des betreffenden Landes nicht erworben, oder enthält die von ihm abgegebene schriftliche Erklärung unrichtige oder entstellte Angaben, so gilt die Genehmigung zur Aufgabe der Reichsangehörigkeit als nicht erteilt und der Betreffende wird mit Gefängnis von 6 Monaten bis 1 Jahr bestraft.

65.

SIAM.

Loi concernant la naturalisation des étrangers; du 18 mai 1911.

Parliamentary Papers. Siam No. 1 (1911). — Cd. 5806.

Despatch from His Majesty's Chargé d'Affaires at Bangkok forwarding a Translation of the Siamese Naturalisation Law of May 18, 1911.

Mr. Beckett to Sir Edward Grey. — (Received July 31.)

Bangkok, June 20, 1911.

Sir,

I have the honour to transmit a translation of a new Naturalisation Law, dated the 18th May last, which appeared in the local press of the 12th instant, and which I am informed by the Siamese Government is authentic.

I have, &c.

W. R. D. Beckett.

Enclosure.

Translation of the Text of the new Naturalisation Law.

By the King's Most Excellent Majesty.

Whereas it is advisable to make definite rules for the granting of naturalisation as one of the various ways in which Siamese nationality may be acquired;

It is hereby enacted as follows:

Chapter I. — *Short Title. Execution.*

1. This law shall be cited as the „Naturalisation Law 130."

2. The Minister of Foreign Affairs shall have charge and control of the execution of this law. He shall have power to frame regulations for such execution, more particularly to prescribe the forms of any applications or declarations and the amount of fees to be paid. These regulations, on being sanctioned by His Majesty and published in the „Government Gazette," shall be deemed to be part of this law.

Chapter II. — *Conditions required for Naturalisation.*

3. Any alien who complies with the conditions required by articles 6 and 7 may apply to be naturalised as a Siamese subject.

4. The grant or refusal of naturalisation lies entirely in the discretion of the Government.

5. The application shall be made in writing and shall be directed to the Minister of Foreign Affairs.

6. No naturalisation may be granted unless

(1.) The applicant be of full age, both according to the Siamese law and the law of his nationality; and

(2.) The applicant be residing in Siam at the time of his application; and

(3.) The applicant has resided in Siam for not less than five years; and

(4.) The applicant be a person of good character and in possession of sufficient means of support.

7. The five years' residence in Siam is not required in the following cases:

(1.) If the applicant has rendered services of an exceptional nature to Siamese Government; or

(2.) If the applicant was originally a Siamese subject who has been naturalised abroad with the sanction of the Siamese Government and who now desires to resume his Siamese nationality;

(3.) If the applicant is a child of an alien who was naturalised as a Siamese subject, and if, at the time of the naturalisation of such alien, he was of full age, both according to the Siamese law and according to the law of his nationality.

8. Naturalisation may be granted only on the Royal sanction being first obtained.

9. The Minister of Foreign Affairs, on receiving the Royal sanction and after the applicant has taken the oath of allegiance, shall issue a notification („prakat") to the effect that the applicant has been naturalised as a Siamese subject.

10. The naturalised person shall on request be furnished with a certificate embodying the substance of the notification.

Chapter III. — *Effects of Naturalisation.*

11. From the date of publication of the notification in the „Government Gazette" the naturalised person shall acquire all the rights and shall be subject to all obligations attendant upon the status of a Siamese subject.

12. The wife or wives of a naturalised person become as of right Siamese subjects.

13. Every child of a naturalised person, who is not of full age at the time of the naturalisation, becomes as of right a Siamese subject. Provided that such child may decline Siamese nationality and resume his

former nationality by making a declaration of alienage to the Minister of Foreign Affairs within one year after attaining full age.

The declarant shall be entitled to an acknowledgment of the receipt of his declaration.

14. An alien who has been naturalised in Siam shall not, while within the limits of the foreign State of which he was previously a subject, be able to take advantage of his Siamese nationality, unless by law of that State or by any treaty concluded with it he is permitted to take such advantage.

In like manner, a Siamese subject who has been naturalised in a foreign State shall not, while in Siam, be able to take advantage of his status as a naturalised foreign subject unless he has been naturalised with the sanction of the Siamese Government.

15. Every Siamese subject, whether natural born or naturalised, who duly ceases to be a Siamese subject and becomes the subject of a foreign State, shall lose the special rights attached to the status of a Siamese subject.

Mai 18, 1911.

66.

ALLEMAGNE, BELGIQUE, FRANCE, ITALIE, PAYS-BAS, PORTUGAL, ROUMANIE, SUÈDE.

Convention concernant les conflits de lois relatifs aux effets du mariage sur les droits et les devoirs des époux dans leurs rapports personnels et sur les biens des époux; signée à la Haye, le 17 juillet 1905.*)

Deutsches Reichs-Gesetzblatt 1912. No. 48.

Convention concernant les conflits de lois relatifs aux effets du mariage sur les droits et les devoirs des époux dans leurs rapports personnels et sur les biens des époux.

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de

(Übersetzung.)

Abkommen, betreffend den Geltungsbereich der Gesetze in Ansehung der Wirkungen der Ehe auf die Rechte und Pflichten der Ehegatten in ihren persönlichen Beziehungen und auf das Vermögen der Ehegatten.

Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des

*) Ont ratifié l'Allemagne, la France, l'Italie, les Pays-Bas, le Portugal, la Roumanie et la Suède. Le dépôt des ratifications a eu lieu à la Haye, le 24 juin 1912.

l'Empire Allemand, Sa Majesté le Roi des Belges, le Président de la République Française, Sa Majesté le Roi d'Italie, Sa Majesté la Reine des Pays-Bas, Sa Majesté le Roi de Portugal et des Algarves, etc., etc., Sa Majesté le Roi de Roumanie, et Sa Majesté le Roi de Suède,

Désirant établir des dispositions communes concernant les effets du mariage sur les droits et les devoirs des époux dans leurs rapports personnels et sur les biens des époux,

Ont résolu de conclure une Convention à cet effet et ont, en conséquence, nommé pour Leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de l'Empire Allemand:

M. M. de Schloezer, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas, et le Docteur Johannes Kriege, Son Conseiller Intime de Légation;

Sa Majesté le Roi des Belges:

M. M. le Baron Guillaume, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas, et A. van den Bulcke, Son Envoyé Extraordinaire et Ministre Plénipotentiaire, Directeur-Général au Ministère des Affaires Etrangères;

Deutschen Reichs, Seine Majestät der König der Belgier, der Präsident der Französischen Republik, Seine Majestät der König von Italien, Ihre Majestät die Königin der Niederlande, Seine Majestät der König von Portugal und Algarvien u. s. w., Seine Majestät der König von Rumänien und Seine Majestät der König von Schweden,

von dem Wunsche geleitet, gemeinsame Bestimmungen über die Wirkungen der Ehe auf die Rechte und Pflichten der Ehegatten in ihren persönlichen Beziehungen und auf das Vermögen der Ehegatten aufzustellen,

haben beschlossen, zu diesem Zwecke ein Abkommen zu treffen, und haben infolgedessen zu Ihren Bevollmächtigten ernannt:

Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reichs:

Herrn von Schlözer, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande, und Herrn Dr. Johannes Kriege, Allerhöchstihren Geheimen Legationsrat;

Seine Majestät der König der Belgier:

Herrn Baron Guillaume, Allerhöchstihren ausserordentlichen Gesandten und Bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande, und Herrn A. van den Bulcke, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister, Generaldirektor im Ministerium der auswärtigen Angelegenheiten;

Le Président de la République Française:

M. M. de Monbel, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République Française près Sa Majesté la Reine des Pays-Bas, et Louis Renault, Professeur de Droit International à l'Université de Paris, Jurisconsulte du Ministère des Affaires Etrangères;

Sa Majesté le Roi d'Italie:

M. Salvatore Tugini, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas;

Sa Majesté la Reine des Pays-Bas:

M. M. le Jonkheer W. M. de Weede de Berencamp, Son Ministre des Affaires Etrangères, J. A. Loeff, Son Ministre de la Justice, et T. M. C. Asser, Son Ministre d'Etat, Membre du Conseil d'Etat, Président de la Commission Royale de Droit International Privé, Président des Conférences de Droit International Privé;

Sa Majesté le Roi de Portugal et des Algarves, etc., etc.:

M. le Comte de Sélir, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas;

Der Präsident der Französischen Republik:

Herrn de Monbel, ausserordentlichen Gesandten und bevollmächtigten Minister der Französischen Republik bei Ihrer Majestät der Königin der Niederlande, und Herrn Louis Renault, Professor des internationalen Rechtes an der Universität in Paris, Justitiar des Ministeriums der auswärtigen Angelegenheiten;

Seine Majestät der König von Italien:

Herrn Salvatore Tugini, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande;

Ihre Majestät die Königin der Niederlande:

Herrn Jonkheer W. M. de Weede de Berencamp, Allerhöchstihren Minister der auswärtigen Angelegenheiten, Herrn J. A. Loeff, Allerhöchstihren Justizminister, und Herrn T. M. C. Asser, Allerhöchstihren Staatsminister, Mitglied des Staatsrats, Präsidenten der Königlichen Kommission für internationales Privatrecht, Präsidenten der Konferenzen über internationales Privatrecht;

Seine Majestät der König von Portugal und Algarvien usw.:

Herrn Grafen de Sélir, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande;

Sa Majesté le Roi de Roumanie:

M. E. Mavrocordato, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas;

Sa Majesté le Roi de Suède:

M. le Baron Falkenberg, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas,

lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

I. Les droits et les devoirs des époux dans leurs rapports personnels.

Article 1.

Les droits et les devoirs des époux dans leurs rapports personnels sont régis par leur loi nationale.

Toutefois, ces droits et ces devoirs ne peuvent être sanctionnés que par les moyens que permet également la loi du pays où la sanction est requise.

II. Les biens des époux.

Article 2.

En l'absence de contrat, les effets du mariage sur les biens des époux, tant immeubles que meubles, sont régis par la loi nationale du mari au moment de la célébration du mariage.

Seine Majestät der König von Rumänien:

Herrn E. Mavrocordato, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande;

Seine Majestät der König von Schweden:

Herrn Baron Falkenberg, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande,

welche, nachdem sie sich ihre Vollmachten mitgeteilt und diese in guter und gehöriger Form befunden haben, über folgende Bestimmungen übereingekommen sind:

I. Die Rechte und Pflichten der Ehegatten in ihren persönlichen Beziehungen.

Artikel 1.

Für die Rechte und Pflichten der Ehegatten in ihren persönlichen Beziehungen ist das Gesetz des Staates, dem sie angehören (Gesetz des Heimatstaats), massgebend.

Jedoch dürfen wegen dieser Rechte und Pflichten nur solche Durchführungsmittel angewendet werden, die auch das Gesetz des Landes gestattet, wo die Anwendung erforderlich ist.

II. Das Vermögen der Ehegatten.

Artikel 2.

In Ermangelung eines Vertrags ist für die Wirkungen der Ehe sowohl auf das unbewegliche als auf das bewegliche Vermögen der Ehegatten das Gesetz des Heimatstaats des Mannes zur Zeit der Eheschliessung massgebend.

Le changement de nationalité des époux ou de l'un d'eux n'aura pas d'influence sur le régime des biens.

Eine Änderung der Staatsangehörigkeit der Ehegatten oder des einen von ihnen ist ohne Einfluss auf das eheliche Güterrecht.

Article 3.

La capacité de chacun des futurs époux pour conclure un contrat de mariage est déterminée par sa loi nationale au moment de la célébration du mariage.

Artikel 3.

Für einen jeden der Verlobten bestimmt sich die Fähigkeit, einen Ehevertrag zu schliessen, nach dem Gesetze seines Heimatstaats zur Zeit der Eheschliessung.

Article 4.

La loi nationale des époux décide s'ils peuvent, au cours du mariage, soit faire un contrat de mariage, soit résilier ou modifier leurs conventions matrimoniales.

Le changement qui serait fait au régime des biens ne peut pas avoir d'effet rétroactif au préjudice des tiers.

Artikel 4.

Das Gesetz des Heimatstaats der Ehegatten entscheidet darüber, ob sie während der Ehe einen Ehevertrag errichten und ihre güterrechtlichen Vereinbarungen aufheben oder ändern können.

Eine Änderung des ehelichen Güterrechts hat keine Rückwirkung zum Nachteil Dritter.

Article 5.

La validité intrinsèque d'un contrat de mariage et ses effets sont régis par la loi nationale du mari au moment de la célébration du mariage, ou, s'il a été conclu au cours du mariage, par la loi nationale des époux au moment du contrat.

La même loi décide si et dans quelle mesure les époux ont la liberté de se référer à une autre loi; lorsqu'ils s'y sont référés, c'est cette dernière loi qui détermine les effets du contrat de mariage.

Artikel 5.

Für die Gültigkeit eines Ehevertrags in Ansehung seines Inhalts sowie für seine Wirkungen ist das Gesetz des Heimatstaats des Mannes zur Zeit der Eheschliessung oder, wenn der Vertrag während der Ehe geschlossen ist, das Gesetz des Heimatstaats der Ehegatten zur Zeit des Vertragsschlusses massgebend.

Das gleiche Gesetz entscheidet darüber, ob und inwieweit die Ehegatten die Befugnis haben, auf ein anderes Gesetz zu verweisen; haben sie auf ein anderes Gesetz verwiesen, so bestimmen sich die Wirkungen des Ehevertrags nach diesem Gesetze.

Article 6.

Le contrat de mariage est valable quant à la forme, s'il a été conclu soit conformément à la loi du pays où il a été fait, soit conformément à la loi nationale de chacun des futurs

Artikel 6.

In Ansehung der Form ist der Ehevertrag gültig, wenn er gemäss dem Gesetze des Landes, wo er errichtet wird, geschlossen ist, oder wenn er geschlossen ist gemäss dem Gesetze

époux au moment de la célébration du mariage, ou encore, s'il a été conclu au cours du mariage, conformément à la loi nationale de chacun des époux.

Lorsque la loi nationale de l'un des futurs époux ou, si le contrat est conclu au cours du mariage, la loi nationale de l'un des époux exige comme condition de validité que le contrat, même s'il est conclu en pays étranger, ait une forme déterminée, ses dispositions doivent être observées.

des Heimatstaats eines jeden der Verlobten zur Zeit der Eheschliessung oder aber während der Ehe gemäss dem Gesetze des Heimatstaats eines jeden der Ehegatten.

Macht das Gesetz des Heimatstaats eines der Verlobten oder, im Falle der Vertragsschliessung während der Ehe, das Gesetz des Heimatstaats eines der Ehegatten die Gültigkeit des Vertrags davon abhängig, dass er, auch wenn er im Ausland geschlossen wird, einer bestimmten Form genügt, so müssen diese Gesetzesvorschriften beobachtet werden.

Article 7.

Les dispositions de la présente Convention ne sont pas applicables aux immeubles placés par la loi de leur situation sous un régime foncier spécial.

Artikel 7.

Die Bestimmungen dieses Abkommens sind nicht anwendbar auf solche Grundstücke, welche nach dem Gesetze der belegenen Sache einer besonderen Güterordnung unterliegen.

Article 8.

Chacun des Etats contractants se réserve:

1°. d'exiger des formalités spéciales pour que le régime des biens puisse être invoqué contre les tiers;
2°. d'appliquer des dispositions ayant pour but de protéger les tiers dans leurs relations avec une femme mariée exerçant une profession sur le territoire de cet Etat.

Les Etats contractants s'engagent à se communiquer les dispositions légales applicables d'après le présent article.

Artikel 8.

Jeder der Vertragsstaaten behält sich vor:

1. besondere Förmlichkeiten zu erfordern, wenn der eheliche Güterstand Dritten gegenüber geltend gemacht werden soll;
2. solche Vorschriften anzuwenden, welche den Zweck verfolgen, Dritte in ihren Rechtsbeziehungen zu einer Ehefrau zu schützen, die in dem Gebiete des Staates einen Beruf ausübt.

Die Vertragsstaaten verpflichten sich, die nach diesem Artikel anwendbaren Gesetzesvorschriften einander mitzuteilen.

III. Dispositions générales.

Article 9.

Si les époux ont acquis, au cours du mariage, une nouvelle et même nationalité, c'est leur nouvelle loi

III. Allgemeine Bestimmungen.

Artikel 9.

Haben die Ehegatten während der Ehe eine neue, und zwar die gleiche Staatsangehörigkeit erworben, so ist

nationale qui sera appliquée dans les cas visés aux articles 1, 4 et 5.

S'il advient, au cours du mariage, que les époux n'aient pas la même nationalité, leur dernière législation commune devra, pour l'application des articles précités, être considérée comme leur loi nationale.

Article 10.

La présente Convention n'aura pas d'application lorsque, d'après les articles précédents, la loi qui devrait être appliquée ne serait pas celle d'un Etat contractant.

IV. Dispositions finales.

Article 11.

La présente Convention sera ratifiée et les ratifications en seront déposées à La Haye, dès que six des Hautes Parties Contractantes seront en mesure de le faire.

Il sera dressé de tout dépôt de ratifications un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à chacun des Etats contractants.

Article 12.

La présente Convention s'applique de plein droit aux territoires européens des Etats contractants.

Si un Etat contractant en désire la mise en vigueur dans ses territoires, possessions ou colonies, situés hors de l'Europe, ou dans ses circonscriptions consulaires judiciaires, il notifiera son intention à cet effet par un acte, qui sera déposé dans les archives du Gouvernement des Pays-Bas. Celui-ci en enverra, par la voie diplomatique, une copie, certifiée conforme, à chacun des Etats

in den Fällen der Artikel 1, 4, 5 das Gesetz ihres neuen Heimatstaats anzuwenden.

Verbleibt den Ehegatten während der Ehe nicht die gleiche Staatsangehörigkeit, so ist bei Anwendung der vorbezeichneten Artikel ihr letztes gemeinsames Gesetz als das Gesetz ihres Heimatstaats anzusehen.

Artikel 10.

Dieses Abkommen findet keine Anwendung, wenn das Gesetz, das nach den vorstehenden Artikeln angewendet werden müsste, nicht das Gesetz eines Vertragsstaats ist.

IV. Schlussbestimmungen.

Artikel 11.

Dieses Abkommen soll ratifiziert und die Ratifikationsurkunden sollen im Haag hinterlegt werden, sobald sechs der Hohen Vertragsparteien hierzu in der Lage sind.

Über jede Hinterlegung von Ratifikationsurkunden soll ein Protokoll aufgenommen werden; von diesem soll eine beglaubigte Abschrift einem jeden der Vertragsstaaten auf diplomatischem Wege mitgeteilt werden.

Artikel 12.

Dieses Abkommen findet auf die europäischen Gebiete der Vertragsstaaten ohne weiteres Anwendung.

Wünscht ein Vertragsstaat die Inkraftsetzung des Abkommens in seinen aussereuropäischen Gebieten, Besitzungen oder Kolonien oder in seinen Konsulargerichtsbezirken, so hat er seine hierauf gerichtete Absicht in einer Urkunde kundzugeben, die im Archive der Regierung der Niederlande hinterlegt wird. Diese wird eine beglaubigte Abschrift davon einem jeden der Vertragsstaaten auf

contractants. La Convention entrera en vigueur dans les rapports entre les Etats qui répondront par une déclaration affirmative à cette notification et les territoires, possessions ou colonies, situés hors de l'Europe, et les circonscriptions consulaires judiciaires, pour lesquels la notification aura été faite. La déclaration affirmative sera déposée, de même, dans les archives du Gouvernement des Pays-Bas, qui en enverra, par la voie diplomatique, une copie, certifiée conforme, à chacun des Etats contractants.

Article 13.

Les Etats représentés à la quatrième Conférence de droit international privé sont admis à signer la présente Convention jusqu'au dépôt des ratifications prévu par l'article 11, alinéa 1er.

Après ce dépôt, ils seront toujours admis à y adhérer purement et simplement. L'Etat qui désire adhérer notifie son intention par un acte qui sera déposé dans les archives du Gouvernement des Pays-Bas. Celui-ci en enverra, par la voie diplomatique, une copie, certifiée conforme, à chacun des Etats contractants.

Article 14.

La présente Convention entrera en vigueur le soixantième jour à partir du dépôt des ratifications prévu par l'article 11, alinéa 1er.

Dans le cas de l'article 12, alinéa 2, elle entrera en vigueur quatre mois après la date de la déclaration affirmative et, dans le cas de l'article 13, alinéa 2, le soixantième jour après la notification des adhésions.

diplomatischem Wege übersenden. Das Abkommen tritt in Kraft für die Beziehungen zwischen den Staaten, die auf diese Kundgebung mit einer zustimmenden Erklärung antworten, und den aussereuropäischen Gebieten, Besitzungen oder Kolonien sowie den Konsulargerichtsbezirken, für welche die Kundgebung erfolgt ist. Die zustimmende Erklärung wird gleichfalls im Archive der Regierung der Niederlande hinterlegt, die eine beglaubigte Abschrift davon einem jeden der Vertragsstaaten auf diplomatischem Wege übersenden wird.

Artikel 13.

Die Staaten, die auf der vierten Konferenz über internationales Privatrecht vertreten waren, werden zur Zeichnung dieses Abkommens bis zu der im Artikel 11 Abs. 1 vorgesehenen Hinterlegung der Ratifikationsurkunden zugelassen.

Nach dieser Hinterlegung soll ihnen der vorbehaltlose Beitritt zu dem Abkommen stets freistehen. Der Staat, der beizutreten wünscht, gibt seine Absicht in einer Urkunde kund, die im Archive der Regierung der Niederlande hinterlegt wird. Diese wird eine beglaubigte Abschrift davon einem jeden der Vertragsstaaten auf diplomatischem Wege übersenden.

Artikel 14.

Dieses Abkommen tritt in Kraft am sechzigsten Tage nach der im Artikel 11 Abs. 1 vorgesehenen Hinterlegung der Ratifikationsurkunden.

Im Falle des Artikel 12 Abs. 2 tritt es vier Monate nach dem Zeitpunkt der zustimmenden Erklärung und im Falle des Artikel 13 Abs. 2 am sechzigsten Tage nach der Kundgebung des Beitritts in Kraft.

Il est entendu que les notifications prévues par l'article 12, alinéa 2, ne pourront avoir lieu qu'après que la présente Convention aura été mise en vigueur conformément à l'alinéa 1er du présent article.

Article 15.

La présente Convention aura une durée de 5 ans à partir de la date indiquée dans l'article 14, alinéa 1er.

Ce terme commencera à courir de cette date, même pour les Etats qui auront adhéré postérieurement et aussi en ce qui concerne les déclarations affirmatives faites en vertu de l'article 12, alinéa 2.

La Convention sera renouvelée tacitement de cinq ans en cinq ans, sauf dénonciation.

La dénonciation devra être notifiée, au moins six mois avant l'expiration du terme visé aux alinéas 2 et 3, au Gouvernement des Pays-Bas, qui en donnera connaissance à tous les autres Etats.

La dénonciation peut ne s'appliquer qu'aux territoires, possessions ou colonies, situés hors de l'Europe, ou aussi aux circonscriptions consulaires judiciaires, compris dans une notification faite en vertu de l'article 12, alinéa 2.

La dénonciation ne produira son effet qu'à l'égard de l'Etat qui l'aura notifiée. La Convention restera exécutoire pour les autres Etats contractants.

En foi de quoi, les plénipotentiaires respectifs ont signé la présente Convention et l'ont revêtue de leurs sceaux.

Fait à La Haye, le 17 juillet Mil Neuf Cent Cinq, en un seul exem-

Es versteht sich, dass die im Artikel 12 Abs. 2 vorgesehenen Kundgebungen erst erfolgen können, nachdem dieses Abkommen gemäss Abs. 1 des vorliegenden Artikels in Kraft gesetzt worden ist.

Artikel 15.

Dieses Abkommen gilt für die Dauer von fünf Jahren, gerechnet von dem im Artikel 14 Abs. 1 angegebenen Zeitpunkt.

Mit demselben Zeitpunkt beginnt der Lauf dieser Frist auch für die Staaten, die erst nachträglich beitreten, und ebenso in Ansehung der auf Grund des Artikel 12 Abs. 2 abgegebenen zustimmenden Erklärungen.

In Ermangelung einer Kündigung gilt das Abkommen als stillschweigend von fünf zu fünf Jahren erneuert.

Die Kündigung muss wenigstens sechs Monate vor dem Ablauf der im Abs. 2, 3 bezeichneten Frist der Regierung der Niederlande erklärt werden, die hiervon allen anderen Staaten Kenntnis geben wird.

Die Kündigung kann auf die aussereuropäischen Gebiete, Besitzungen oder Kolonien oder auch auf die Konsulargerichtsbezirke beschränkt werden, die in einer auf Grund des Artikel 12 Abs. 2 erfolgten Kundgebung aufgeführt sind.

Die Kündigung soll nur in Ansehung des Staates wirksam sein, der sie erklärt hat. Für die übrigen Vertragsstaaten bleibt das Abkommen in Kraft.

Zu Urkund dessen haben die Bevollmächtigten dieses Abkommen unterzeichnet und mit ihren Siegeln versehen.

Geschehen im Haag am 17. Juli neunzehnhundertfünf in einer einzigen

plaire, qui sera déposé dans les archives du Gouvernement des Pays-Bas et dont une copie, certifiée conforme, sera remise par la voie diplomatique, à chacun des Etats qui ont été représentés à la quatrième Conférence de Droit International Privé.

Pour l'Allemagne:
(L. S.) *von Schloezer.*
(L. S.) *Kriege.*

Pour la Belgique:
(L. S.) *Guillaume.*
(L. S.) *Alfred van den Bulcke.*

Pour la France:
(L. S.) *Monbel.*
(L. S.) *L. Renault.*

Pour l'Italie:
(L. S.) *Tugini.*

Pour les Pays-Bas:
(L. S.) *W. M. de Weede.*
(L. S.) *J. A. Loeff.*
(L. S.) *T. M. C. Asser.*

Pour le Portugal:
(L. S.) *Conde de Sélir.*

Pour la Roumanie:
(L. S.) *Edg. Mavrocordato.*

Pour la Suède:
(L. S.) *G. Falkenberg.*

Ausfertigung, die im Archive der Regierung der Niederlande zu hinterlegen ist und wovon eine beglaubigte Abschrift auf diplomatischem Wege einem jeden der Staaten übergeben werden soll, die auf der vierten Konferenz über internationales Privatrecht vertreten waren.

Für Deutschland:
(L. S.) *von Schlözer.*
(L. S.) *Kriege.*

Für Belgien:
(L. S.) *Guillaume.*
(L. S.) *Alfred van den Bulcke.*

Für Frankreich:
(L. S.) *Monbel.*
(L. S.) *L. Renault.*

Für Italien:
(L. S.) *Tugini.*

Für die Niederlande:
(L. S.) *W. M. de Weede.*
(L. S.) *J. A. Loeff.*
(L. S.) *T. M. C. Asser.*

Für Portugal:
(L. S.) *Graf de Sélir.*

Für Rumänien:
(L. S.) *Edg. Mavrocordato.*

Für Schweden:
(L. S.) *G. Falkenberg.*

67.

ALLEMAGNE, AUTRICHE, HONGRIE, FRANCE, ITALIE, PAYS-BAS, PORTUGAL, ROUMANIE, SUÈDE.

Convention concernant l'interdiction et les mesures de protection analogues; signée à la Haye, le 17 juillet 1905.*)

Deutsches Reichsgesetzblatt 1912, No. 48.

Convention concernant l'interdiction et les mesures de protection analogues.

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de l'Empire Allemand, Sa Majesté l'Empereur d'Autriche, Roi de Bohême, etc. et Roi Apostolique de Hongrie, pour l'Autriche et pour la Hongrie, le Président de la République Française, Sa Majesté le Roi d'Italie, Sa Majesté la Reine des Pays-Bas, Sa Majesté le Roi de Portugal et des Algarves, etc., etc., Sa Majesté le Roi de Roumanie, et Sa Majesté le Roi de Suède,

Désirant établir des dispositions communes concernant l'interdiction et les mesures de protection analogues,

Ont résolu de conclure une Convention à cet effet et ont, en conséquence, nommé pour Leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de l'Empire Allemand:

M. M. de Schloezer, Son Envoyé Extraordinaire et Ministre

(Übersetzung.)

Abkommen über die Entmündigung und gleichartige Fürsorgemassregeln.

Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reichs, Seine Majestät der Kaiser von Österreich, König von Böhmen usw. und Apostolischer König von Ungarn, für Österreich und für Ungarn, der Präsident der Französischen Republik, Seine Majestät der König von Italien, Ihre Majestät die Königin der Niederlande, Seine Majestät der König von Portugal und Algarvien usw., Seine Majestät der König von Rumänien und Seine Majestät der König von Schweden,

von dem Wunsche geleitet, gemeinsame Bestimmungen über die Entmündigung und über gleichartige Fürsorgemassregeln aufzustellen,

haben beschlossen, zu diesem Zwecke ein Abkommen zu treffen, und haben infolgedessen zu Ihren Bevollmächtigten ernannt:

Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reichs:

Herrn von Schlözer, Allerhöchstihren ausserordentlichen

*) Ont ratifié l'Allemagne, la Hongrie, la France, l'Italie, les Pays-Bas, le Portugal et la Roumanie. Le dépôt des ratifications a eu lieu à la Haye, le 24 juin 1912.

Plénipotentiaire près Sa Majesté la Reine des Pays-Bas, et le Docteur Johannes Kriege, Son Conseiller Intime de Légation;

Sa Majesté l'Empereur d'Autriche, Roi de Bohême, etc. et Roi Apostolique de Hongrie:

Pour l'Autriche et pour la Hongrie:

M. le Comte Christophe de Wydenbruck, Son Conseiller intime et Chambellan, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas,

Pour l'Autriche:

M. le Chevalier Robert Holzknecht de Hort, Chef de section au Ministère Impérial Royal autrichien de la Justice,

Pour la Hongrie:

M. Gustave Töry, Secrétaire d'Etat au Ministère Royal hongrois de la Justice;

Le Président de la République Française:

M. M. de Monbel, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République Française près Sa Majesté la Reine des Pays-Bas, et Louis Renault, Professeur de Droit International à l'Université de Paris, Jurisconsulte du Ministère des Affaires Etrangères;

Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande, und Herrn Dr. Johannes Kriege, Allerhöchstihren Geheimen Legationsrat;

Seine Majestät der Kaiser von Österreich, König von Böhmen u. s. w. und Apostolischer König von Ungarn:

Für Österreich und für Ungarn:

Herrn Grafen Christoph von Wydenbruck, Allerhöchstihren Geheimen Rat und Kammerherrn, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande,

Für Österreich:

Herrn Ritter Robert Holzknecht von Hort, Sektionschef im Kaiserlich Königlich Österreichischen Justizministerium,

Für Ungarn:

Herrn Gustav Töry, Staatssekretär im Königlich Ungarischen Justizministerium;

Der Präsident der Französischen Republik:

Herrn de Monbel, ausserordentlichen Gesandten und bevollmächtigten Minister der Französischen Republik bei Ihrer Majestät der Königin der Niederlande, und Herrn Louis Renault, Professor des internationalen Rechtes an der Universität in Paris, Justitiar des Ministeriums der auswärtigen Angelegenheiten;

Sa Majesté le Roi d'Italie:

M. Salvatore Tugini, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas;

Sa Majesté la Reine des Pays-Bas:

M. M. le Jonkheer W. M. de Weede de Berencamp, Son Ministre des Affaires Etrangères, J. A. Loeff, Son Ministre de la Justice, et T. M. C. Asser, Son Ministre d'Etat, Membre du Conseil d'Etat, Président de la Commission Royale de Droit International Privé, Président des Conférences de Droit International Privé;

Sa Majesté le Roi de Portugal et des Algarves, etc., etc.:

M. le Comte de Sélir, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas;

Sa Majesté le Roi de Roumanie:

M. E. Mavrocordato, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas;

Sa Majesté le Roi de Suède:

M. le Baron Falkenberg, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas,

Seine Majestät der König von Italien:

Herrn Salvatore Tugini, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande;

Ihre Majestät die Königin der Niederlande:

Herrn Jonkheer W. M. de Weede de Berencamp, Allerhöchstihren Minister der auswärtigen Angelegenheiten, Herrn J. A. Loeff, Allerhöchstihren Justizminister, und Herrn T. M. C. Asser, Allerhöchstihren Staatsminister, Mitglied des Staatsrats, Präsidenten der Königlichen Kommission für internationales Privatrecht, Präsidenten der Konferenzen über internationales Privatrecht;

Seine Majestät der König von Portugal und Algarvien usw.:

Herrn Grafen de Sélir, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande;

Seine Majestät der König von Rumänien:

Herrn E. Mavrocordato, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande;

Seine Majestät der König von Schweden:

Herrn Baron Falkenberg, Allerhöchstihren ausserordentlichen Gesandten und bevollmächtigten Minister bei Ihrer Majestät der Königin der Niederlande,

lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

Article 1.

L'interdiction est régie par la loi nationale de la personne à interdire, sauf les dérogations à cette règle contenues dans les articles suivants.

Article 2.

L'interdiction ne peut être prononcée que par les autorités compétentes de l'Etat auquel la personne à interdire appartient par sa nationalité et la tutelle sera organisée selon la loi de cet Etat, sauf les cas prévus aux articles suivants.

Article 3.

Si, dans un des Etats contractants, un ressortissant d'un autre de ces Etats se trouve dans les conditions requises pour l'interdiction d'après sa loi nationale, toutes les mesures provisoires nécessaires pour la protection de sa personne et de ses biens pourront être prises par les autorités locales.

Avis en sera donné au Gouvernement de l'Etat dont il est le ressortissant.

Ces mesures prendront fin dès que les autorités locales recevront des autorités nationales l'avis que des mesures provisoires ont été prises ou que la situation de l'individu dont il s'agit a été réglée par un jugement.

welche, nachdem sie sich ihre Vollmachten mitgeteilt und diese in guter und gehöriger Form befunden haben, über folgende Bestimmungen übereingekommen sind:

Artikel 1.

Für die Entmündigung ist das Gesetz des Staates, dem der zu Entmündigende angehört (Gesetz des Heimatstaats), massgebend, unbeschadet der in den folgenden Artikeln enthaltenen Abweichungen.

Artikel 2.

Die Entmündigung kann nur durch die zuständigen Behörden des Staates, dem der zu Entmündigende angehört, ausgesprochen und die Vormundschaft wird gemäss dem Gesetze dieses Staates angeordnet werden, abgesehen von den in den folgenden Artikeln vorgesehenen Fällen.

Artikel 3.

Befindet sich in einem Vertragsstaat der Angehörige eines anderen Vertragsstaats in einem Zustand, für den das Gesetz seines Heimatstaats die Entmündigung vorsieht, so können alle erforderlichen vorläufigen Massregeln zum Schutze seiner Person und seines Vermögens durch die örtlich zuständigen Behörden getroffen werden.

Hiervon ist der Regierung des Staates, dem er angehört, Mitteilung zu machen.

Die Massregeln fallen weg, sobald die örtlich zuständigen Behörden von den Behörden des Heimatstaats die Mitteilung erhalten, dass vorläufige Massregeln getroffen seien oder dass die Rechtslage der Person, um die es sich handelt, durch eine Entscheidung geregelt sei.

Article 4.

Les autorités de l'Etat, sur le territoire duquel un étranger dans le cas d'être interdit aura sa résidence habituelle, informeront de cette situation, dès qu'elle leur sera connue, les autorités de l'Etat dont l'étranger est le ressortissant, en communiquant la demande en interdiction dont elles seraient saisies et les mesures provisoires qui auraient été prises.

Article 5.

Les communications prévues aux articles 3 et 4 se feront par la voie diplomatique à moins que la communication directe ne soit admise entre les autorités respectives.

Article 6.

Il sera sursis à toute mesure définitive dans le pays de la résidence habituelle tant que les autorités nationales n'auront pas répondu à la communication prévue dans l'article 4. Si les autorités nationales déclarent vouloir s'abstenir ou ne répondent pas dans le délai de six mois, les autorités de la résidence habituelle auront à statuer sur l'interdiction en tenant compte des obstacles qui, d'après la réponse des autorités nationales, empêcheraient l'interdiction dans le pays d'origine.

Article 7.

Dans le cas où les autorités de la résidence habituelle sont compétentes en vertu de l'article précédent la demande en interdiction peut être formée par les personnes et pour les

Artikel 4.

Die Behörden des Staates, in dessen Gebiet ein zu entmündigender Ausländer seinen gewöhnlichen Aufenthalt hat, haben von diesem Sachverhalte, sobald er ihnen bekannt geworden ist, den Behörden des Staates, dem der Ausländer angehört, Nachricht zu geben; hierbei haben sie den Antrag auf Entmündigung, falls sie mit einem solchen Antrag befasst worden sind, und die etwa getroffenen vorläufigen Massregeln mitzuteilen.

Artikel 5.

Die in den Artikeln 3, 4 vorgesehenen Mitteilungen werden auf diplomatischem Wege bewirkt, sofern nicht der unmittelbare Verkehr zwischen den beiderseitigen Behörden zugelassen ist.

Artikel 6.

Solange nicht die Behörden des Heimatstaats auf die im Artikel 4 vorgesehene Mitteilung geantwortet haben, ist in dem Lande des gewöhnlichen Aufenthalts von jeder endgültigen Massregel Abstand zu nehmen. Erklären die Behörden des Heimatstaats, dass sie nicht einschreiten wollen, oder antworten sie nicht innerhalb einer Frist von sechs Monaten, so haben die Behörden des gewöhnlichen Aufenthalts über die Entmündigung zu befinden; sie haben hierbei die Hindernisse zu berücksichtigen, die nach der Antwort der Behörden des Heimatstaats eine Entmündigung im Heimatland ausschliessen würden.

Artikel 7.

Falls die Behörden des gewöhnlichen Aufenthalts auf Grund des vorstehenden Artikels zuständig sind, kann der Antrag auf Entmündigung von den Personen und aus den Gründen gestellt

causes admises à la fois par la loi nationale et par la loi de la résidence de l'étranger.

Article 8.

Lorsque l'interdiction a été prononcée par les autorités de la résidence habituelle, l'administration de la personne et des biens de l'interdit sera organisée selon la loi locale, et les effets de l'interdiction seront régis par la même loi.

Si, néanmoins, la loi nationale de l'interdit dispose que sa surveillance sera confiée de droit à une personne déterminée, cette disposition sera respectée autant que possible.

Article 9.

L'interdiction, prononcée par les autorités compétentes conformément aux dispositions qui précèdent, produira, en ce qui concerne la capacité de l'interdit et sa tutelle, ses effets dans tous les Etats contractants sans qu'il soit besoin d'un exéquatur.

Toutefois les mesures de publicité, prescrites par la loi locale pour l'interdiction prononcée par les autorités du pays, pourront être déclarées par elle également applicables à l'interdiction qui aurait été prononcée par une autorité étrangère, ou remplacées par des mesures analogues. Les Etats contractants se communiqueront réciproquement, par l'intermédiaire du Gouvernement néerlandais, les dispositions qu'ils auraient prises à cet égard.

werden, die zugleich von dem Gesetze des Heimatstaats und dem Gesetze des Aufenthalts des Ausländers zugelassen sind.

Artikel 8.

Ist die Entmündigung durch die Behörden des gewöhnlichen Aufenthalts ausgesprochen, so wird die Verwaltung in Ansehung der Person und des Vermögens des Entmündigten gemäss dem Gesetze des Ortes angeordnet; für die Wirkungen der Entmündigung ist dasselbe Gesetz massgebend.

Schreibt jedoch das Gesetz des Heimatstaats des Entmündigten vor, dass die Fürsorge von Rechts wegen einer bestimmten Person zukommt, so ist diese Vorschrift tunlichst zu beachten.

Artikel 9.

Eine Entmündigung, die nach vorstehenden Bestimmungen von den zuständigen Behörden ausgesprochen wird, ist, soweit es sich um die Geschäftsfähigkeit des Entmündigten und die Vormundschaft über ihn handelt, in allen Vertragsstaaten wirksam, ohne dass es einer Vollstreckbarkeitserklärung bedarf.

Jedoch können Massregeln zum Zwecke der Veröffentlichung, die das Gesetz des Ortes für eine durch die Behörden des Landes ausgesprochene Entmündigung vorschreibt, von diesem Gesetze gleicherweise auf die durch eine ausländische Behörde etwa ausgesprochene Entmündigung für anwendbar erklärt oder durch gleichartige Massregeln ersetzt werden. Die Vertragsstaaten haben sich gegenseitig durch Vermittelung der Niederländischen Regierung die Vorschriften mitzuteilen, die sie in dieser Hinsicht erlassen haben.

Article 10.

L'existence d'une tutelle établie conformément à l'article 8 n'empêche pas de constituer une nouvelle tutelle conformément à la loi nationale.

Il sera, le plus tôt possible, donné avis de ce fait aux autorités de l'Etat où l'interdiction a été prononcée.

La loi de cet Etat décide à quel moment cesse la tutelle qui y avait été organisée. A partir de ce moment les effets de l'interdiction prononcée par les autorités étrangères seront régis par la loi nationale de l'interdit.

Artikel 10.

Ist eine Vormundschaft gemäss Artikel 8 eingeleitet, so steht dies der Anordnung einer neuen Vormundschaft gemäss dem Gesetze des Heimatstaats nicht entgegen.

Von dieser Anordnung ist sobald wie möglich den Behörden des Staates Mitteilung zu machen, in dessen Gebiete die Entmündigung ausgesprochen worden ist.

Das Gesetz dieses Staates entscheidet darüber, in welchem Zeitpunkt die Vormundschaft, die dort eingeleitet ist, endigt. Von diesem Zeitpunkt an ist für die Wirkungen der durch die ausländischen Behörden ausgesprochenen Entmündigung das Gesetz des Heimatstaats des Entmündigten massgebend.

Article 11.

L'interdiction, prononcée par les autorités de la résidence habituelle, pourra être levée par les autorités nationales conformément à leur loi.

Les autorités locales qui ont prononcé l'interdiction pourront également la lever pour tous les motifs prévus par la loi nationale ou par la loi locale. La demande peut être formée par tous ceux qui y sont autorisés par l'une ou par l'autre de ces lois.

Les décisions qui lèvent l'interdiction auront de plein droit leurs effets dans tous les Etats contractants sans qu'il soit besoin d'un exéquatur.

Artikel 11.

Eine Entmündigung, die durch die Behörden des gewöhnlichen Aufenthalts ausgesprochen ist, kann von den Behörden des Heimatstaats gemäss ihren Gesetzen aufgehoben werden.

Die örtlich zuständigen Behörden, welche die Entmündigung ausgesprochen haben, können sie ebenfalls aufheben, und zwar aus allen den Gründen, die in dem Gesetze des Heimatstaats oder in dem Gesetze des Ortes vorgesehen sind. Der Antrag kann von jedem gestellt werden, der hierzu nach dem einen oder dem anderen dieser Gesetze ermächtigt ist.

Die Entscheidungen, welche eine Entmündigung aufheben, sind ohne weiteres und ohne dass es einer Vollstreckbarkeitserklärung bedarf, in allen Vertragsstaaten wirksam.

Article 12.

Les dispositions qui précèdent recevront leur application sans qu'il y ait à distinguer entre les meubles et

Artikel 12.

Die vorstehenden Bestimmungen finden Anwendung, ohne dass zwischen beweglichem und unbeweglichem Ver-

les immeubles de l'incapable, sauf exception quant aux immeubles placés par la loi de leur situation sous un régime foncier spécial.

Article 13.

Les règles contenues dans la présente Convention sont communes à l'interdiction proprement dite, à l'institution d'une curatelle, à la nomination d'un conseil judiciaire, ainsi qu'à toutes autres mesures analogues en tant qu'elles entraînent une restriction de la capacité.

Article 14.

La présente Convention ne s'applique qu'à l'interdiction des ressortissants d'un des Etats contractants ayant leur résidence habituelle sur le territoire d'un de ces Etats.

Toutefois l'article 3 de la présente Convention s'applique à tous les ressortissants des Etats contractants.

Article 15.

La présente Convention sera ratifiée et les ratifications en seront déposées à La Haye, dès que six des Hautes Parties Contractantes seront en mesure de le faire.

Il sera dressé de tout dépôt de ratifications un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à chacun des Etats contractants.

Article 16.

La présente Convention s'applique de plein droit aux territoires européens des Etats contractants.

mögen des Entmündigten zu unterscheiden ist; ausgenommen sind Grundstücke, die nach dem Gesetze der belegenen Sache einer besonderen Güterordnung unterliegen.

Artikel 13.

Die in diesem Abkommen enthaltenen Regeln gelten in gleicher Weise für die Entmündigung im eigentlichen Sinne, für die Anordnung einer Kuratel, für die Bestellung eines gerichtlichen Beistandes sowie für alle anderen Massregeln gleicher Art, soweit sie eine Beschränkung der Geschäftsfähigkeit zur Folge haben.

Artikel 14.

Dieses Abkommen findet nur Anwendung auf die Entmündigung von solchen Angehörigen eines Vertragsstaats, welche ihren gewöhnlichen Aufenthalt im Gebiet eines der Vertragsstaaten haben.

Jedoch findet der Artikel 3 dieses Abkommens auf alle Angehörigen der Vertragsstaaten Anwendung.

Artikel 15.

Dieses Abkommen soll ratifiziert und die Ratifikationsurkunden sollen im Haag hinterlegt werden, sobald sechs der Hohen Vertragsparteien hierzu in der Lage sind.

Über jede Hinterlegung von Ratifikationsurkunden soll ein Protokoll aufgenommen werden; von diesem soll eine beglaubigte Abschrift einem jeden der Vertragsstaaten auf diplomatischem Wege mitgeteilt werden.

Artikel 16.

Dieses Abkommen findet auf die europäischen Gebiete der Vertragsstaaten ohne weiteres Anwendung.

Si un Etat contractant en désire la mise en vigueur dans ses territoires, possessions ou colonies, situés hors de l'Europe, ou dans ses circonscriptions consulaires judiciaires, il notifiera son intention à cet effet par un acte, qui sera déposé dans les archives du Gouvernement des Pays-Bas. Celui-ci en enverra, par la voie diplomatique, une copie, certifiée conforme, à chacun des Etats contractants. La Convention entrera en vigueur dans les rapports entre les Etats qui répondront par une déclaration affirmative à cette notification et les territoires, possessions ou colonies, situés hors de l'Europe, et les circonscriptions consulaires judiciaires, pour lesquels la notification aura été faite. La déclaration affirmative sera déposée, de même, dans les archives du Gouvernement des Pays-Bas, qui en enverra, par la voie diplomatique, une copie, certifiée conforme, à chacun des Etats contractants.

Article 17.

Les Etats représentés à la quatrième Conférence de droit international privé sont admis à signer la présente Convention jusqu'au dépôt des ratifications prévu par l'article 15, alinéa 1er.

Après ce dépôt, ils seront toujours admis à y adhérer purement et simplement. L'Etat qui désire adhérer notifie son intention par un acte qui sera déposé dans les archives du Gouvernement des Pays-Bas. Celui-ci en enverra, par la voie diplomatique, une copie, certifiée conforme, à chacun des Etats contractants.

Wünscht ein Vertragsstaat die Inkraftsetzung des Abkommens in seinen aussereuropäischen Gebieten, Besitzungen oder Kolonien oder in seinen Konsulargerichtsbezirken, so hat er seine hierauf gerichtete Absicht in einer Urkunde kundzugeben, die im Archive der Regierung der Niederlande hinterlegt wird. Diese wird eine beglaubigte Abschrift davon einem jeden der Vertragsstaaten auf diplomatischem Wege übersenden. Das Abkommen tritt in Kraft für die Beziehungen zwischen den Staaten, die auf diese Kundgebung mit einer zustimmenden Erklärung antworten, und den aussereuropäischen Gebieten, Besitzungen oder Kolonien sowie den Konsulargerichtsbezirken, für welche die Kundgebung erfolgt ist. Die zustimmende Erklärung wird gleichfalls im Archive der Regierung der Niederlande hinterlegt, die eine beglaubigte Abschrift davon einem jeden der Vertragsstaaten auf diplomatischem Wege übersenden wird.

Artikel 17.

Die Staaten, die auf der vierten Konferenz über internationales Privatrecht vertreten waren, werden zur Zeichnung dieses Abkommens bis zu der im Artikel 15 Abs. 1 vorgesehenen Hinterlegung der Ratifikationsurkunden zugelassen.

Nach dieser Hinterlegung soll ihnen der vorbehaltlose Beitritt zu dem Abkommen stets freistehen. Der Staat, der beizutreten wünscht, gibt seine Absicht in einer Urkunde kund, die im Archive der Regierung der Niederlande hinterlegt wird. Diese wird eine beglaubigte Abschrift davon einem jeden der Vertragsstaaten auf diplomatischem Wege übersenden.

Article 18.

La présente Convention entrera en vigueur le soixantième jour à partir du dépôt des ratifications prévu par l'article 15, alinéa 1er.

Dans le cas de l'article 16, alinéa 2, elle entrera en vigueur quatre mois après la date de la déclaration affirmative et, dans le cas de l'article 17, alinéa 2, le soixantième jour après la date de la notification des adhésions.

Il est entendu que les notifications prévues par l'article 16, alinéa 2, ne pourront avoir lieu qu'après que la présente Convention aura été mise en vigueur conformément à l'alinéa 1er du présent article.

Article 19.

La présente Convention aura une durée de 5 ans à partir de la date indiquée dans l'article 18, alinéa 1er.

Ce terme commencera à courir de cette date, même pour les Etats qui auront adhéré postérieurement et aussi en ce qui concerne les déclarations affirmatives faites en vertu de l'article 16, alinéa 2.

La Convention sera renouvelée tacitement de cinq ans en cinq ans, sauf dénonciation.

La dénonciation devra être notifiée, au moins six mois avant l'expiration du terme visé aux alinéas 2 et 3, au Gouvernement des Pays-Bas, qui en donnera connaissance à tous les autres Etats.

La dénonciation peut ne s'appliquer qu'aux territoires, possessions ou colonies, situés hors de l'Europe, ou aussi aux circonscriptions consulaires judiciaires, compris dans

Artikel 18.

Dieses Abkommen tritt in Kraft am sechzigsten Tage nach der im Artikel 15 Abs. 1 vorgesehenen Hinterlegung der Ratifikationsurkunden.

Im Falle des Artikel 16 Abs. 2 tritt es vier Monate nach dem Zeitpunkt der zustimmenden Erklärung und im Falle des Artikel 17 Abs. 2 am sechzigsten Tage nach dem Zeitpunkt der Kundgebung des Beitritts in Kraft.

Es versteht sich, dass die im Artikel 16 Abs. 2 vorgesehenen Kundgebungen erst erfolgen können, nachdem dieses Abkommen gemäss Abs. 1 des vorliegenden Artikels in Kraft gesetzt worden ist.

Artikel 19.

Dieses Abkommen gilt für die Dauer von fünf Jahren, gerechnet von dem im Artikel 18 Abs. 1 angegebenen Zeitpunkt.

Mit demselben Zeitpunkt beginnt der Lauf dieser Frist auch für die Staaten, die erst nachträglich beitreten, und ebenso in Ansehung der auf Grund des Artikel 16 Abs. 2 abgegebenen zustimmenden Erklärungen.

In Ermangelung einer Kündigung gilt das Abkommen als stillschweigend von fünf zu fünf Jahren erneuert.

Die Kündigung muss wenigstens sechs Monate vor dem Ablauf der im Abs. 2, 3 bezeichneten Frist der Regierung der Niederlande erklärt werden, die hiervon allen anderen Staaten Kenntnis geben wird.

Die Kündigung kann auf die aussereuropäischen Gebiete, Besitzungen oder Kolonien oder auch auf die Konsulargerichtsbezirke beschränkt werden, die in einer auf Grund des Artikel 16

une notification faite en vertu de l'article 16, alinéa 2.

La dénonciation ne produira son effet qu'à l'égard de l'Etat qui l'aura notifiée. La Convention restera exécutoire pour les autres Etats contractants.

En foi de quoi, les plénipotentiaires respectifs ont signé la présente Convention et l'ont revêtue de leurs sceaux.

Fait à La Haye, le 17 juillet Mil Neuf Cent Cinq, en un seul exemplaire, qui sera déposé dans les archives du Gouvernement des Pays-Bas et dont une copie, certifiée conforme, sera remise par la voie diplomatique à chacun des Etats qui ont été représentés à la quatrième Conférence de Droit International Privé.

Pour l'Allemagne:
(L. S.) *von Schloezer.*
(L. S.) *Kriege.*

Pour l'Autriche et pour la Hongrie:
(L. S.) *C. A. Wydenbruck,*
Ministre d'Autriche-Hongrie.

Pour l'Autriche:
(L. S.) *Holzknecht,*
Chef de section au Ministère Impérial Royal autrichien de la Justice.

Pour la Hongrie:
(L. S.) *Töry,*
Secrétaire d'Etat au Ministère Royal hongrois de la Justice.

Pour la France:
(L. S.) *Monbel.*
(L. S.) *L. Renault.*

Pour l'Italie:
(L. S.) *Tugini.*

Abs. 2 erfolgten Kundgebung aufgeführt sind.

Die Kündigung soll nur in Ansehung des Staates wirksam sein, der sie erklärt hat. Für die übrigen Vertragsstaaten bleibt das Abkommen in Kraft.

Zu Urkund dessen haben die Bevollmächtigten dieses Abkommen unterzeichnet und mit ihren Siegeln versehen.

Geschehen im Haag am 17. Juli neunzehnhundertfünf in einer einzigen Ausfertigung, die im Archive der Regierung der Niederlande zu hinterlegen ist und wovon eine beglaubigte Abschrift auf diplomatischem Wege einem jeden der Staaten übergeben werden soll, die auf der vierten Konferenz über internationales Privatrecht vertreten waren.

Für Deutschland:
(L. S.) *von Schlözer.*
(L. S.) *Kriege.*

Für Österreich und für Ungarn:
(L. S.) *C. A. Wydenbruck,*
Österreichisch-Ungarischer Gesandter.

Für Österreich:
(L. S.) *Holzknecht,*
Sektionschef im Kaiserlich Königlich Österreichischen Justizministerium.

Für Ungarn:
(L. S.) *Töry,*
Staatssekretär im Königlich Ungarischen Justizministerium.

Für Frankreich:
(L. S.) *Monbel.*
(L. S.) *L. Renault.*

Für Italien:
(L. S.) *Tugini.*

Pour les Pays-Bas:
(L. S.) *W. M. de Weede.*
(L. S.) *J. A. Loeff.*
(L. S.) *T. M. C. Asser.*

Pour le Portugal:
(L. S.) *Conde de Sélir.*

Pour la Roumanie:
(L. S.) *Edg. Mavrocordato.*

Pour la Suède:
(L. S.) *G. Falkenberg.*

Für die Niederlande:
(L. S.) *W. M. de Weede.*
(L. S.) *J. A. Loeff.*
(L. S.) *T. M. C. Asser.*

Für Portugal:
(L. S.) *Graf de Sélir.*

Für Rumänien:
(L. S.) *Edg. Mavrocordato.*

Für Schweden:
(L. S.) *G. Falkenberg.*

68.

ALLEMAGNE, DANEMARK, ESPAGNE, FRANCE, ITALIE, LUXEMBOURG, PAYS-BAS, SUISSE.

Correspondance concernant l'application de la Convention internationale sur l'interdiction de l'emploi du Phosphore blanc (jaune) dans l'industrie des allumettes, signée le 26 septembre 1906;*) du 17 juillet au 16 novembre 1911.

Schweizerisches Bundesblatt 1912. I, p. 238.

Communication du Conseil fédéral suisse.

An die Regierungen der dem internationalen Übereinkommen betreffend das Verbot der Verwendung von weissem Phosphor in der Zündholzindustrie beigetretenen Staaten, nämlich Deutschland, Dänemark, Frankreich, Grossbritannien, Italien, Luxemburg, die Niederlande und Spanien, ist folgendes Rundschreiben gerichtet worden:

Mit Rundschreiben vom 17. Juli haben wir die Regierungen der Staaten die dem internationalen Übereinkommen vom 26. September 1906 betreffend das Verbot der Verwendung von weissem (gelben) Phosphor in der Zündholzindustrie beigetreten sind, auf Wunsch der grossbritannischen Regierung ersucht, uns ihre Ansicht über die Frage mitteilen zu wollen, ob die Einfuhr von Mustern von Zündhölzchen mit weissem (gelben) Phosphor dem erwähnten Übereinkommen zuwiderlaufe oder nicht. Die britische

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*) V. N. R. G. 3. s. II. p. 872.

Regierung ihrerseits hat die Frage bejaht und wir haben uns im Rundschreiben vom 17. Juli 1911 in gleicher Weise ausgesprochen.

Wir beehren uns nun, Ihnen im nachfolgenden die hierauf eingelangten Antworten zur Kenntnis zu bringen.

Italien. Die Regierung ist der Ansicht, dass das Übereinkommen auch auf die Einfuhr von Musterzündhölzchen mit weissem Phosphor Anwendung zu finden habe, dass sonach die Einfuhr solcher Zündhölzchen als ganz allgemein und ohne irgend welche Einschränkung verboten betrachtet werden müsse.

Deutsches Reich. Die Regierung hält dafür, dass die Einfuhr von Phosphorzündhölzchen zu Musterzwecken von dem in Artikel 1 des Übereinkommens aufgestellten Verbot der Einfuhr von Phosphorzündhölzchen nicht berührt werde. Ihre Auffassung beruhe auf der Erwägung, dass es dem Sinne des Übereinkommens entspreche, nur die Einfuhr der Phosphorzündhölzer zum Zwecke der gewerblichen Verwertung im Inlande zu verbieten, weil lediglich ein hierauf gerichtetes Verbot dem Schutze der inländischen Arbeiter diene. In demselben Sinne beschränke sich auch das im Reichsgesetze vom 10. Mai 1902 betreffend Phosphorzündwaren enthaltene Einfuhrverbot auf die Einfuhr zum Zwecke der gewerblichen Verwertung, und das internationale Übereinkommen sei von deutscher Seite nur in diesem Sinne abgeschlossen worden. (24. August.)

Dänemark. Nach Ansicht der Regierung bezieht sich der Artikel 1 des Übereinkommens auch auf die Einfuhr von Mustersendungen gedachter Art. (30. August.)

Niederlande. Die Regierung hält dafür, dass die Einfuhr von Phosphorzündhölzchen dem Artikel 1 des Übereinkommens nicht zuwiderlaufe, wenn sie in so geringen Mengen erfolge, dass sie nicht als für den Handel oder für den allgemeinen Gebrauch bestimmt angesehen werden könnten, so z. B. in dem Falle, wo ein Reisender, der aus dem Auslande kommt, eine Schachtel Zündhölzchen mit weissem Phosphor für seinen persönlichen Bedarf mitbringe; ebenso verhalte es sich mit der Einfuhr von Mustern von Zündhölzchen mit weissem Phosphor, vorausgesetzt, dass es sich um eine ganz beschränkte Menge handle.

Frankreich. In Übereinstimmung mit dem Arbeitsministerium und dem Finanzministerium ist das Ministerium der Auswärtigen Angelegenheiten der Ansicht, dass der Artikel 1 des Übereinkommens die Einfuhr von Erzeugnissen gedachter Art untersagt, von welchem Belange die Sendung sein mag, d. h. ob es sich um ganze Ladungen oder um Muster handle. Das in der französischen Zollgesetzgebung aufgestellte Verbot betrifft tatsächlich die Zündhölzchen aller Art und in welcher Form sie immer vorgewiesen werden, wenn sie für Rechnung von Privaten eingeführt werden. (31. August.)

Luxemburg. Mit Rücksicht auf die engen wirtschaftlichen Beziehungen zwischen dem Grossherzogtum und dem Deutschen Reiche, die durch die Verträge der Zollunion miteinander verbunden sind, haben die beiden Staaten es für angemessen erachtet, über den hier in Betracht kommenden Gegen-

stand übereinstimmend lautende Gesetze zu erlassen; unter diesen Umständen bezieht sich die Regierung auf die von der deutschen Reichsregierung geäusserte Ansicht. (16. November.)

Spanien. Artikel 1 des genannten Übereinkommens untersagt allgemein und ohne irgendwelche Einschränkung die Einfuhr in die Vertragsstaaten und den Verkauf von Zündhölzern, die weissen Phosphor enthalten, wobei in keiner seiner Bestimmungen eine Ausnahme hinsichtlich der Einfuhr von Mustern dieses Erzeugnisses und des Verkehrs mit denselben gemacht wird;

in Erwägung ferner:

dass die Absichten und der Hauptzweck des Übereinkommens darin bestehen, die Gefahren, die sich für die Gesundheit der Arbeiter aus den mit der Fabrikation von Phosphorzündhölzern unauflöslich verbundenen Verrichtungen ergeben, durchaus zu verhüten;

dass der Import derselben die logische Folge ihrer Herstellung in den Ursprungsländern ist, auf deren Unterdrückung das Übereinkommen hinzielt;

dass diese Einfuhr, die eine vorherige Fabrikation voraussetzt, keinen anderen Zweck haben kann, als den Verkauf in dem Lande, in das sie stattgefunden hat und in dem kraft des Übereinkommens die Herstellung nicht gestattet ist, den Verkauf anzubahnen, was einem tatsächlichen Privilegium der Staaten, aus denen die Muster stammen, gleichkäme;

dass ausserdem, wenn auch in Spanien die Einfuhr jeder Art Zündhölzer (allumettes), sowohl der Phosphor enthaltenden als der Ersatzmittel verboten ist, weil der Staat das Monopol der Fabrikation und des Verkaufes dieser Erzeugnisse besitzt und sie somit unter keinen Umständen in sein Gebiet eingeführt werden können, es sei denn auf Anordnung und für Rechnung der Regierung, doch davon ausgegangen werden muss, dass die von der britischen Regierung aufgeworfene Interpretationsfrage für die Vertragsstaaten allgemeinen Charakter habe, ob nun die Phosphorindustrie frei oder monopolisiert sei;

dass schliesslich die vollständige Durchführung von Artikel 1 des Übereinkommens für die Signatarmächte erst drei Jahre nach seiner Ratifikation und für die Staaten, die ihr beigetreten sind und zu denen Spanien gehört, laut Art. 5 erst fünf Jahre nach der Notifikation des Beitrittes obligatorisch ist, welche Frist für Spanien am 28. Oktober 1914 abläuft;

ist die Regierung der Ansicht:

1. dass das im Artikel 1 des Übereinkommens aufgestellte Verbot sich auch auf die Einfuhr von Mustern irgendwelcher Art von mit Phosphor hergestellten Zündhölzern erstreckt und für Private sowohl als für den Staat Gültigkeit hat;

2. dass das auf die in Frage stehenden Muster sich beziehende Verbot während der jedem Lande zur Inkraftsetzung des Übereinkommens in seinem vollen Umfange eingeräumten Frist für die Vertragsstaaten nicht verbindlich ist.

Mit der vorstehenden Mitteilung müssen wir den erhaltenen Auftrag als erfüllt betrachten. Wir können nicht umhin beizufügen, dass wir den Zweck von Mustersendungen der Phosphorzündhölzer nach Vertragsstaaten nicht einzusehen vermögen, da doch in diesen der Verkauf solcher Ware mit dem Inkrafttreten des Übereinkommens verboten sein wird.

69.

ALLEMAGNE, AUTRICHE-HONGRIE, BELGIQUE, FRANCE, GRANDE-BRETAGNE, LUXEMBOURG, PAYS-BAS, PÉROU, RUSSIE, SUÈDE, SUISSE.

Note britannique concernant l'augmentation de l'exportation du sucre accordée à la Russie; du 17 mars 1912.*)

Eidgenössische Gesetzsammlung 1912. No. 20.

Note adressée par M. le Ministre de la Grande-Bretagne à Bruxelles à M. le Ministre des Affaires étrangères de Belgique.

Bruxelles, le 17 mars 1912.

Monsieur le Ministre,

Sous la date du 18 décembre 1907, mon prédécesseur sir A. Hardinge a adressé une note à Votre Excellence annonçant qu'il était autorisé à signer le protocole relatif à l'adhésion de la Russie à la convention des sucres**) sous la réserve que l'assentiment du gouvernement de Sa Majesté britannique se bornait aux dispositions permettant à la Russie d'adhérer à la convention et n'impliquait pas un assentiment à la stipulation visant l'exportation du sucre russe.

En présence de cette réserve, le gouvernement de Sa Majesté britannique considère que son assentiment n'est pas nécessaire pour l'augmentation de l'exportation russe prévue par le protocole qui a fait l'objet des récentes discussions de la Commission internationale des sucres, vu que cet assentiment n'a jamais été donné à la restriction de celle-ci et, en conséquence, il ne se propose pas de m'autoriser à signer ce protocole, qui prévoit une augmentation de l'exportation du sucre russe en même temps que le renouvellement de la convention pour une période de cinq années à partir du 1er septembre 1913. Néanmoins, pour éviter toute possibilité de malentendu à ce sujet, je suis chargé par le Principal Secrétaire d'Etat pour

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*) Comp. ci-dessus, p. 7.
**) V. Protocole du 19 décembre 1907; N. R. G. 3. s. I, p. 880.

les Affaires étrangères de Sa Majesté britannique de déclarer formellement que le gouvernement de Sa Majesté britannique ne voit aucune objection à l'augmentation de l'exportation russe pour la présente année et pour les années ultérieures de la continuation de la convention, et je dois prier Votre Excellence de vouloir bien communiquer le contenu de cette note aux autres membres de l'Union sucrière, en les priant d'en prendre acte.

Je saisis cette occasion, Monsieur le Ministre, de renouveler à Votre Excellence les assurances de ma haute considération.

(sig.) *F.-H. Villiers.*

Pour copie conforme:
Le Président
de la Commission internationale:
Capelle.

Certifié par le Secrétaire général du Ministère
des Affaires étrangères de Belgique:
Baron van der Elst.

(L. S.)

70.

GRANDE-BRETAGNE, SIAM.

Arrangement modifiant quelques dispositions du Traité conclu le 3 septembre 1883;*) réalisé par un Echange de notes du 6 juin et du 27 octobre 1906.

British and Foreign State Papers C (1911), p. 569.

Exchange of Notes between the British and Siamese Governments dispensing with the Registration of Forest Agreements prescribed in the Treaty of 1883.

(1) Mr. Beckett to Prince Devawongse.

Bangkok, June 6, 1906.

M. le Ministre,

Some little time ago an inquiry was addressed to this Legation by one of the British firms engaged in the teak trade in the north of Siam as to whether, now that the conditions under which leases for teak forests are issued are wholly changed, the necessity still continues for the registration of forest agreements under the rules prescribed by Article XI of the Treaty of 1883.

*) V. N. R. G. 2. s. X, p. 570.

Representations were made to the Ministry of the Interior on the subject, for the purpose of ascertaining unofficially the views of His Siamese Majesty's Government, and that Ministry concurred in the proposition that, under the present changed conditions, the necessity of carrying out the formalities as to registration of agreements laid down in the Treaty had disappeared.

The matter was referred to His Majesty's Government by His Majesty's Minister, and I am now instructed by His Majesty's Secretary of State to inquire whether His Siamese Majesty's Government concur in the suggestion that such formalities be dispensed with, and the registration in His Majesty's Consulates of forest agreements, as prescribed in Article XI of the Treaty of 1883, be abolished.

I take, &c.,

W. R. D. Beckett.

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(2) Prince Devawongse to Mr. Beckett.

Bangkok, October 27, 1906.

M. Le Chargé d'Affaires,

In your note, dated the 6th June last, you informed me that, after having ascertained unofficially from the Ministry of the Interior that that Ministry concurred in the proposition that under the present changed conditions under which leases of teak forests are now issued, the necessity of carrying out the formalities as to registration of forest agreements laid down in the Treaty of 1883 had disappeared, you had been instructed by His Britannic Majesty's Secretary of State for Foreign Affairs to inquire whether His Majesty's Government concur in that suggestion that such formalities be dispensed with, and the registration in His Britannic Majesty's Consulates of forest agreements, as prescribed in Article XI of the Treaty of 1883, be abolished.

In reply, I have the honour to inform you that His Majesty's Government entirely concur in the suggestion that the formalities as to the registration of forest agreements, under the rules prescribed in Article XI of the Treaty of 1883, be dispensed with.

I take, &c.,

Devawongse.

71.

PAYS-BAS, VÉNÉZUÉLA.

Protocole en vue de rétablir les relations diplomatiques entre les deux pays; signé à la Haye, le 19 avril 1909.*)

Publication officielle.

Protocole.

Le Gouvernement de Sa Majesté la Reine des Pays-Bas et le Gouvernement des Etats-Unis de Vénézuéla, animés du désir sincère de prévenir à l'avenir de nouvelles difficultés pareilles à celles surgies entre les deux pays dans le cours de l'année précédente et de poser une base durable pour une entente cordiale;

considérant que les deux Gouvernements se déclarent satisfaits des explications fournies réciproquement au sujet des incidents qui ont troublé leurs bonnes relations;

considérant que les intérêts des deux pays demandent la prompte conclusion d'un traité d'amitié, de commerce et de navigation, ainsi que d'une convention consulaire, offrant les garanties nécessaires pour un commerce réel entre les colonies des Antilles néerlandaises et le continent vénézuélien;

considérant que le rétablissement antérieur des relations diplomatiques est désirable à cet effet;

sont convenus de ce qui suit:

Les relations diplomatiques entre le royaume des Pays-Bas et les Etats-Unis de Vénézuéla seront rétablies à partir du jour de la signature de ce protocole et les deux Gouvernements pourront instituer leurs légations respectives à Caracas et à la Haye;

le Gouvernement des Pays-Bas continuera à observer le protocole du 20 août 1894;**)

le Gouvernement Vénézuélien s'engage:

1⁰. à ne modifier d'aucune manière, jusqu'à la conclusion d'un traité de commerce et d'une convention consulaire entre les deux Etats les lois et prescriptions actuellement en vigueur dans la République de Vénézuéla, au détriment des sujets néerlandais ou du commerce et de la navigation des Pays-Bas et de ses colonies;

2⁰. à étendre immédiatement et spontanément aux colonies néerlandaises des Antilles toute concession à faire à l'avenir à l'Angleterre en faveur de l'île de la Trinité ou à toute autre Puissance en faveur d'une autre île quelconque dans les Antilles, notamment au sujet des 30 % de droits additionnels perçus actuellement par la République vénézuélienne en vigueur de la loi du mois de juin 1881 entrée en vigueur le 3 mai 1882.

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*) Ratifié. **) V. N. R. G. 2. s. XXII, p. 606.

Le Gouvernement vénézuélien s'engage à payer dans les trois mois qui suivent la signature du présent protocole au Gouvernement néerlandais comme indemnité évaluée de commun accord pour les dommages causés par la saisie des navires néerlandais „Estela", „Penelope", „Justicia", „Carmita" et „Marion" la somme de (bs. 20000) vingt mille bolivares.

Comme preuve de la haute appréciation par le Gouvernement néerlandais des sentiments d'amitié montrés par le général Gomez, Vice-Président des Etats-Unis de Vénézuéla, depuis qu'il est chargé de la Présidence de la République, le Gouvernement néerlandais déclare que les garde-côtes saisis par ses bâtiments de guerre seront mis immédiatement à Willemstad à la disposition d'un délégué, à désigner à cet effet par le Gouvernement de Vénézuéla.

En foi de quoi les soussignés, le jonkheer R. de Marees van Swinderen, Ministre des Affaires Etrangères de Sa Majesté la Reine des Pays-Bas, et Monsieur le Docteur J. de J. Paúl, délégué spécial du Gouvernement des Etats-Unis de Vénézuéla, dûment autorisés par Sa Majesté la Reine et par le Vice-Président constitutionnellement chargé de la Présidence de la République ont apposé leurs signatures au présent protocole, lequel sera soumis à la ratification des pouvoirs compétents et dont une traduction exacte en hollandais et en espagnol sera faite et signée par les deux Plénipotentiaires.

Fait en double à la Haye, le 19 avril 1909.

(L. S.) (s.) *R. de Marees van Swinderen.*
(L. S.) (s.) *J. de J. Paúl.*

72.

ARGENTINE, BOLIVIE.

Protocole afin de rétablir les relations diplomatiques entre les deux pays; signé à Buenos Aires, le 13 décembre 1910.

República Argentina. Tratados, Convenciones etc. Publicación oficial. II(1911), p. 276.

Reunidos en el despacho de Relaciones Exteriores de la República Argentina, el día trece de Diciembre del año mil novecientos diez, el Excmo. Sr. Epifanio Portela, Ministro del ramo y el Excmo. Sr. General D. José Manuel Pando, Agente Confidencial del Gobierno de Bolivia, con el propósito de buscar una fórmula que conduzca al restablecimiento de las relaciones diplomáticas entre sus respectivos Gobiernos, facilitando

la realización de un acto oficial en que se haga constar la solución á que se arribare, debidamente autorizados para estos fines. El Sr. Pando manifestó; que el Gobierno de Bolivia reconoce la sinceridad y el espíritu de rectitud del Presidente de la Nación Argentina, al pronunciar en calidad de árbitro entre Bolivia y Perú, el laudo de nueve de Julio de mil novecientos nueve;*) y que, al formular ciertas observaciones de orden jurídico conservó sus tradicionales sentimientos de afecto á la Nación Argentina; el Sr. Portela declaró, que concordaba con la fórmula, que lealmente restablece, con la verdad en la apreciación de los actos del Gobierno Argentino, la cordialidad de las relaciones entre ambos Países.

En seguida se convino en redactar en doble ejemplar, el presente Protocolo, para que previa la aprobación de los respectivos Gobiernos, expidan éstos un Decreto con la declaración de estar restablecidas las relaciones diplomáticas entre Bolivia y la República Argentina, Decreto que se promulgará en La Paz y Buenos Aires simultáneamente el día quince del corriente mes y año.

Epifanio Portela.
José M. Pando.

Reunidos en el despacho del Departamento de Relaciones Exteriores y Culto de la República Argentina, los Sres. Dr. Ernesto Bosch, Ministro titular del Ramo y el Sr. General D. Manuel Pando, Agente Confidencial de Bolivia, ambos debidamente autorizados al efecto; éste expuso:

Que en razón de la crisis ministerial producida en su país, el Sr. Presidente de la República de Bolivia se había visto en la imposibilidad de expedir el decreto que, de acuerdo con lo establecido en el Protocolo de 13 del mes pasado, debía dictarse el día 15, y que, desaparecido ese inconveniente con la constitución del nuevo Gabinete Boliviano proponía se prorrogara el indicado plazo hasta el día 9 de Enero de 1911.

El Dr. Bosch, por su parte, declaró que aceptaba la proposición formulada por el Sr. General Pando, y se convino en dejar constancia de ello, redactando, en doble ejemplar, la presente acta, en Buenos Aires, á los 4 días del mes de Enero del año 1911.

José Manuel Pando.
Ernesto Bosch.

*) V. N. R. G. 3. s. III, p. 53.

73.

ITALIE.

Décret concernant le séjour des navires, en temps de guerre, dans les ports militaires du littoral italien; du 20 août 1909.

Gazzetta ufficiale 1909. No. 232.

Vittorio Emanuele III per grazia di Dio e per volontà della Nazione Re d'Italia,

Visto il R. decreto 21 aprile 1895, n. 322, relativo all'approdo ed al soggiorno delle navi nelle piazze forti marittime nel tempo di guerra;

Udito il parere del Consiglio superiore di marina;

Sulla proposta del Nostro ministro della marina, di accordo con quello della guerra;

Abbiamo decretato e decretiamo:

Art. 1.

Ogni qualvolta una piazza forte marittima debba essere messa in assetto di guerra, il comandante di essa, sempre che le circostanze lo richiedano, potrà intimare alle navi in genere, da guerra e da commercio, che trovinsi ancorate nelle zone difese, di prendere il largo, o di recarsi in quelli altri punti che convenisse assegnar loro.

Le navi che ricevono l'intimazione di prendere il largo, sono tenute ad allontanarsi fuori del tiro delle artiglierie entro dodici ore dal momento in cui l'ordine venne loro notificato a bordo.

Alle navi che non si trovino in condizioni di prendere il mare nel termine stabilito, sono concesse, subordinatamente alle esigenze della piazza, tutte la facilitazioni possibili.

Per l'esecuzione dell'ordine dato il comandante può ricorrere all'impiego di tutti quei mezzi, che il bisogno o l'urgenza del caso richiede.

Art. 2.

E assolutamente vietato in tempo di guerra, così di giorno, come di notte, a qualunque galleggiante di proprietà privata ed alle imbarcazioni delle navi da guerra neutrali, ancorate nelle acque di una piazza marittima, di circolare nelle acque stesse senza preventivo e speciale assenso, rilasciato dal Comando della piazza.

Le navi da commercio nazionali e quelle delle nazioni alleate, le navi da guerra neutrali, che si trovano ancorate in una piazza marittima, possono comunicare colla terra soltanto nelle ore diurne, dal sorgere del sole al tramonto, e le loro imbarcazioni debbono recarsi par la via più diretta a quel punto di approdo che sarà stabilito dal comando.

E vietato alle stesse navi di tenere galleggianti in mare durante la notte. Qualora per casi urgenti necessitasse loro di comunicare, nelle ore notturne, l'imbarcazione occorrente potrà essere fornita dal comando de la piazza, dietro richiesta fatta con segnale convenzionale prestabilito. Qualunque altra segnalazione è assolutamente proibita.

Art. 3.

Qualunque nave, che nel tempo di guerra si avvicini ad una piazza forte marittima durante le ore diurne, sia con l'intenzione di chiedervi l'approdo, sia unicamente transitando a portat a di vista delle opere di difesa, deve anzi tutto farsi riconoscere e non potrà procedere verso l'ancoraggio senza aver ottenuto prima l'esplicito permesso dal comandante la piazza, o per questi dal comandante la difesa marittima locale.

Art. 4.

Alle navi da guerra od ausiliarie nazionali ed alleate saranno distribuiti dal Ministero (Ufficio del capo di stato maggiore) speciali fascicoli riservatissimi contenenti le norme intese a disciplinarne il riconoscimento ed il relativo approdo nelle piazze.

Art. 5.

Le navi da commercio nazionali e quelle delle nazioni alleate, le navi da guerra o da commercio neutrali, per farsi riconoscere dovranno tenere alzata in posizione ben visibile la rispettiva bandiera nazionale ed il proprio nominativo secondo il Codice internazionale dei segnali.

Volendo approdare nelle piazze marittime dovranno fermarsi alla massima distanza dalla costa consentita dalle visibilità dei segnali e dalla portata dei semafori (ad ogni modo non mai meno di 5 miglia) rivolgendo a questi la richiesta di approdo che consiste nell'accompagnare il predetto nominativo con la bandiera convenzionale per chiamare il pilota oppure col segnale del Codice internazionale P. D. „Chiedo il permesso di entrare in porto“.

Art. 6.

Il semaforo della piazza, che riceve questo segnale, ne dà notizia immediata al Comando, corredandola di quelle informazioni che il capo posto stimerà utili, come il nome, la nazionalità, la distanza, il rilevamento, ecc.

Se detto Comando non crede opportuno concedere l'approdo, fa rispondere per mezzo dello stesso semaforo col segnale VSX „Sono dispiacente di non poter acconsentire alla domanda“.

Se invece lo consente manderà sulla nave i pilota, che dovrà guidarla all'ancoraggio. Potrà anche essere inviato un ufficiale con lo speciale incarico del riconoscimento ravvicinato e della visita e con l'istruzione di concedere, oppur no, l'approdo secondo il risultato di questa.

Per cura dei Comandi delle piazze saranno stabiliti speciali segnali convenzionali, per mezzo dei quali l'ufficiale inviato al riconoscimento

della nave o lo stesso pilota possano trasmettere, a mezzo delle stazioni semaforiche, quelle informazioni che si rendesse urgente o necessario di comunicare. Uno fra detti segnali dovrà indicare che la nave è stata sottoposta alla visita ed un altro che essa ha imbarcato il pilota; ma principalmente dovrà essere stabilito quel segnale, variabile di giorno in giorno e da tenersi alzato in posizione ben visibile, col quale si indichi alle stazioni semaforiche ed al naviglio della difesa, che la nave, che lo porta, ha ottenuto il permesso di approdo e dirige per l'ancoraggio.

Art. 7.

Spetta al comandante la piazza giudicare se sia oppur no il caso di concedere l'approdo in essa alle navi indicate nell'art. 5, sempre quando la presenza loro nelle acque della piazza non turbi od ostacoli lo sviluppe dei mezzi di difesa; a tale scopo la detta autorità dovrà tener presente:

a) che l'approdo è vietato nelle ore notturne;

b) che alle navi neutrali, che avessero assoluto bisogno di approdo, quò essere concesso di ancorare in uno spazio convenientemente stabilito, fuori della linea di sbarramento;

c) che in casi dubbi o in circostanze speciali potrà richiedere istruzioni al Ministero dal quale dipende.

Art. 8.

Per richiamare all'osservanza delle disposizioni date con gli articoli del presente decreto quelle navi che, per ignoranza o di proposito, contravvenissero ad esse, dalle stazioni semaforiche della piazza saranno alzati i segnali del Codice internazionale, richiesti dal caso, facendoli appoggiare con un colpo di cannone in salva, dalla batteria all'uopo destinata. Qualora tale avviso non basti ad ottenere l'esecuzione degli ordini, trascorsi cinque minuti dal primo colpo, ne sarà sparato un secondo, a palla, diretto ad un centinaio di metri a proravia della nave; ed ove questa si mostri ancora riluttante, verrà aperto il fuoco contro di essa.

Se condizioni di urgenza lo richiedessero, si potrà omettere l'avviso preventivo del colpo in salva.

Art. 9.

Per cura del ministro della marina sarà compilato e pubblicato un elenco delle piazze forti marittime e di quelle altre località, alle quali dovrà estendersi l'applicazione del presente decreto.

Nell'elenco in parola saranno chiaramente indicati gli ancoraggi ed i tratti di costa compresi nel perimetro delle dette piazze forti o località, nonchè i semafori che, in relazione a quanto è detto negli articoli 5^{0}, 6^{0} e 8^{0}, dovranno rispondere ai segnali fatti dalle navi.

Art. 10.

Il R. decreto 21 aprile 1895, n. 322, che regola in tempo di guerra il soggiorno e lo approdo delle navi nelle piazze marittime, è abrogato.

Ordiniamo che il presente decreto, munito del sigillo dello Stato, sia inserto nella raccolta ufficiale delle leggi e dei decreti del Regno d'Italia, mandando a chiunque spetti di osservarlo e di farlo osservare.

Dato a Sant'Anna di Valdieri, addì 20 agosto 1909.

Vittorio Emanuele.

Mirabello — Spingardi.

Visto, Il guardasigilli: Orlando.

Traduction allemande.*)

Bestimmungen über den Aufenthalt von Schiffen in italienischen Kriegshäfen usw. zu Kriegszeiten.

Art. 1. Sobald ein befestigter Küstenplatz in Kriegszustand gesetzt werden soll, kann der Kommandant erforderlichenfalls den in der Verteidigungszone ankernden Krieg- und Handelsschiffen befehlen, in See zu gehen oder den Ankerplatz zu wechseln.

Die Schiffe, welche Befehl erhalten, auszulaufen, sind gehalten, innerhalb 12 Stunden nach Empfang dieses Befehls sich ausser Schussweite der Befestigungen zu begeben. Den Schiffen, die innerhalb der gegebenen Zeit nicht in See gehen können, sollen alle Erleichterungen bewilligt werden, die mit der Sicherheit des Platzes vereinbar sind. Für die Ausführung des gegebenen Befehls können die Platzkommandanten alle Mittel anwenden, welche die Dringlichkeit des Falles erheischen.

Art. 2. In Kriegszeiten ist es bei Tage sowohl wie bei Nacht den Privatfahrzeugen und Booten neutraler im Kriegshafen ankernder Kriegschiffe durchaus verboten, ohne vorherige vom Festungskommandanten eingeholte Erlaubnis herumzufahren.

Italienische Handelsschiffe und solche verbündeter Nationen sowie neutrale Kriegschiffe, welche in den Gewässern eines befestigten Küstenplatzes ankern, dürfen nur bei Tage, vom Sonnenaufgang bis Sonnenuntergang, mit dem Lande verkehren, und ihre Boote müssen sich auf dem direktesten Wege zu dem vom Festungskommando bestimmten Landungsplatz begeben.

Art. 3. Jedes Schiff, welches sich in Kriegszeiten bei Tage einem befestigten Küstenplatz nähert — sei es, um den Platz anzulaufen, sei es im Vorbeifahren in Sicht der Küstenwerke —, muss sich zu erkennen geben und darf sich seinem Ankerplatz nicht nähern, ohne vorher die ausdrückliche Erlaubnis des Festungskommandanten oder des Kommandanten der lokalen Hafenverteidigung erhalten zu haben.

Art. 4. Den italienischen und verbündeten Krieg- und Hilfsschiffen werden vom Marineministerium ganz geheime Vorschriften zugesandt werden,

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*) Marine-Rundschau 1910, p. 407.

welche die Bestimmungen über Erkennungssignale und Annäherung an die Küstenplätze enthalten.

Art. 5. Italienische Handelsschiffe und Handelsschiffe verbündeter Staaten sowie neutrale Krieg- und Handelsschiffe müssen als Erkennungszeichen die Nationalflagge. und ihren Namen nach dem internationalen Signalbuch gut sichtbar heissen.

Wenn sie einen Küstenplatz anlaufen wollen, so müssen sie auf einer Maximalentfernung von der Küste, die die Sichtbarkeit der Signale und Semaphore zulässt (aber keinesfalls weniger als 5 sm), stoppen und an letztere die Bitte um Erlaubnis zur Annäherung richten. Diese besteht darin, dass ausser dem Schiffsnamen das Lotsensignal oder das Signal „P D" des internationalen Signalbuchs, d. h.: „Ich bitte um Erlaubnis, in den Hafen einzulaufen", geheisst wird.

Art. 6. Die Semaphorstation des Platzes, die das Signal erhält, meldet es unter Beifügung des Schiffsnamens, der Entfernung, Peilung usw. sogleich dem Festungskommando. Wenn das Kommando ein Einlaufen des Schiffes für nicht angebracht hält, so lässt es durch dieselbe Semaphorstation das Signal machen U S X: „Ich bedaure, der Bitte nicht entsprechen zu können." Wenn das Kommando dagegen einverstanden ist, so schickt es einen Lotsen auf das Schiff, der es auf den Ankerplatz bringt. Es kann auch ein Offizier geschickt werden mit dem Auftrage, das Schiff näher zu besichtigen oder zu besuchen und ihm — je nach dem Ergebnis der Inaugenscheinnahme — das Einlaufen zu erlauben oder zu verweigern.

Die Festungskommandos setzen besondere Signale fest, durch die der zur Besichtigung abgesandte Offizier oder der Lotse den Semaphorstationen dringende und wichtige Mitteilungen machen kann. Je eines dieser Signale muss bedeuten, dass das Schiff einer Besichtigung unterzogen und dass der Lotse eingeschifft ist. In erster Linie muss aber das von Tag zu Tag sich ändernde und gut sichtbar zu heissende Signal festgesetzt werden, durch das Signalstationen und Hafenverteidigungsschiffen gezeigt wird, dass das Schiff die Erlaubnis zum Einlaufen erhalten hat und zu seinem Ankerplatz steuert.

Art. 7. Der Festungskommandant muss beurteilen, ob den im Artikel 5 bezeichneten Schiffen das Einlaufen zu gestatten ist oder nicht, und zwar mit Rücksicht darauf, dass ihre Anwesenheit in den Gewässern des Platzes den Gebrauch der Verteidigungsmittel nicht stört oder hindert. Deswegen muss er sich gegenwärtig halten,

a) dass ein Einlaufen bei Nacht verboten ist,
b) dass neutralen Schiffen, welche ein Einlaufen dringend nötig haben, erlaubt werden kann, an einem geeigneten Platz ausserhalb der Sperren zu ankern,
c) dass er in zweifelhaften oder besonderen Fällen Befehle von dem Ministerium einholen kann, dem er untersteht.

Art. 8. Um diejenigen Schiffe, welche aus Unwissenheit oder mit Vorsatz gegen diese Bestimmungen handeln, aufmerksam zu machen, werden

von den Semaphorstationen unter gleichzeitigem Abfeuern eines Schusses aus einer besonders bestimmten Batterie solche Signale nach dem internationalen Signalbuch geheisst, wie sie der Fall erfordert. Wenn dieser Anruf nicht genügt, um die Ausführung des Befehls zu erwirken, so wird 5 Minuten nach dem ersten Schuss ein scharfer Schuss 100 m vor den Bug des Schiffes gefeuert. Zeigt sich dieses auch dann noch ungehorsam so wird es beschossen.

Wenn Eile geboten ist, kann der Salutschuss wegfallen.

Art. 9. Das Marineministerium veröffentlicht eine Liste der befestigten Küstenplätze und anderer Häfen, auf welche sich die Anwendung dieses Dekrets erstreckt. Es sind dies folgende Plätze: Altare-Vado, Genua, Spezia, Monte Argentario, Gaeta, Maddalena, Messina, Tarent, Ancona, Brindisi, Porto Corsini, Venedig.

In der Liste sind die Ankerplätze und Küstenstriche, die zum Bereich der Festungen und Häfen gehören, sowie die Semaphorstationen, welche die in den Artikeln 5, 6 und 8 besprochenen Signale machen oder annehmen, aufgeführt.

Art. 10. Das Königliche Dekret vom 21. April 1895 Nr. 322, welches das Anlaufen von Kriegshäfen und den Aufenthalt in ihnen zu Kriegszeiten für Schiffe regelte, ist aufgehoben.

74.

ALLEMAGNE.

Règlement concernant le droit d'entrée des bâtiments de guerre étrangers dans les eaux territoriales allemandes; du 16 mai 1877, modifié le 26 juillet 1910.

Marine-Verordnungs-Blatt 1877, No. 11; 1910, No. 15.

Vorschriften über die Zulassung und die Behandlung fremder Kriegsschiffe in den Häfen und Gewässern der deutschen Küste.

§ 1.

Zum Anlaufen befestigter und unbefestigter deutscher Häfen und Flussmündungen und zum Befahren der Binnengewässer bedürfen Kriegsschiffe und Kriegsfahrzeuge fremder Mächte keiner besonderen Erlaubnis. Jedoch ist eine rechtzeitige auf diplomatischem Wege zu übermittelnde Anzeige über den bevorstehenden Besuch erforderlich.

Ohne diese dürfen fremde Kriegsschiffe und Kriegsfahrzeuge mit Ausnahme der im § 2 angegebenen Fälle weder die äusserste Befestigungs-

linie überschreiten, noch sich auf Reede oder im Hafen beziehungsweise in Flussmündungen und Binnengewässern aufhalten. Über Benutzung des Kaiser Wilhelm-Kanals siehe § 3.

Die Zahl der derselben fremden Nation angehörenden Kriegsschiffe und Kriegsfahrzeuge, denen der gleichzeitige Aufenthalt in einem befestigten oder unbefestigten Hafen pp. gestattet ist, wird in der Regel auf drei beschränkt. Ausnahmen bedürfen der auf diplomatischem Wege einzuholenden Genehmigung.

§ 2.

Die vorstehenden Bestimmungen finden keine Anwendung

a) auf Schiffe und Fahrzeuge, die Landesherren, Mitglieder landesherrlicher Familien, Präsidenten von Republiken oder deren Gefolge, oder die Botschafter oder Gesandte am Hofe Seiner Majestät des Kaisers an Bord haben;
b) auf Schiffe und Fahrzeuge, die durch Seegefahr oder Havarie zum Anlaufen eines deutschen Hafens usw. genötigt werden.

§ 3.

Zur Fahrt durch den Kaiser Wilhelm-Kanal bedürfen fremde Kriegsschiffe und Kriegsfahrzeuge der vorherigen, auf diplomatischem Wege einzuholenden Erlaubnis.

§ 4.

In den befestigten oder mit einer Garnison belegten Häfen, die nicht Sitz eines Marinestationschefs sind, hat von der Annäherung und dem Eintreffen eines fremden Kriegsschiffs oder Kriegsfahrzeugs der Lotsenkommandeur oder Hafenmeister unverzüglich den Kommandanten (Garnisonältesten) in Kenntnis zu setzen.

In Neufahrwasser hat der Lotsenkommandeur gleichzeitig auch den Oberwerftdirektor in Danzig zu benachrichtigen.

Die Kommandanten (Garnisonältesten) haben das Eintreffen fremder Kriegsschiffe oder Kriegsfahrzeuge auf telegraphischem Wege unmittelbar dem zuständigen Generalkommando, dem Marinestationskommando der Nord- oder Ostsee, dem Admiralstab der Marine und dem Reichs-Marineamt mitzuteilen.

In Kiel und Wilhelmshaven erfolgt die Benachrichtigung der beiden letztgenannten Behörden durch die Stationskommandos.

In Häfen ohne Garnison hat die Polizeibehörde die im Absatz 3 aufgeführten Behörden telegraphisch von dem Eintreffen fremder Kriegsschiffe oder Kriegsfahrzeuge in Kenntnis zu setzen.

§ 5.

Das Recht, den fremden Kriegsschiffen und Fahrzeugen den Ankerplatz zuzuweisen und, wenn eine Änderung desselben nötig wird, diese zu verlangen, steht allein dem Marinestations-Chef, beziehungsweise dem Kommandanten etc. zu, welcher sich mit der Zollbehörde in Benehmen

zu setzen hat, um die Interessen der letzteren bei der Bestimmung des Ankerplatzes berücksichtigen zu können.

§ 6.

Die Lotsen in den befestigten Häfen sind mit Weisung darüber zu versehen, ob, eventuell welche und wie viele fremde Kriegsschiffe etc. ohne vorherige Erlaubnis einlaufen dürfen, oder ob eine solche einzuholen ist und wo die Schiffe etc. zu ankern beziehungsweise festzumachen haben. Der Kommandant etc. hat ausserdem, soweit es auf das Interesse der Schiffahrts- oder der Hafenpolizei ankommt, das Gutachten des Lotsen-Kommandeurs, beziehungsweise Hafenmeisters, einzuholen und tunlichst zu beachten.

§ 7.

Schiffe und Fahrzeuge fremder Kriegsflotten sind nicht verbunden, zur Ansegelung der Reede und des Ankerplatzes einen Lotsen zu nehmen. Sie sind jedoch innerhalb der Befestigungslinie eines deutschen Hafens der Polizei-Ordnung desselben unterworfen.

§ 8.

Werden seitens eines fremden Kriegsschiffes oder Fahrzeuges die Hafenpolizei-Vorschriften übertreten, so ist das Schiffskommando zunächst darauf aufmerksam zu machen und bei demselben auf genaue Befolgung dieser Vorschriften zu dringen. Gelingt es nicht, auf diesem Wege Abhülfe zu schaffen, so hat die zuständige Stelle bei Gefahr im Verzuge nach eigenem Ermessen einzuschreiten, andernfalls aber die Weisungen der vorgesetzten Behörde einzuholen.

§ 9.

Wenn ein fremdes Kriegsschiff, Fahrzeug oder Geschwader die Befestigungslinie von der See her überschreitet, so wird demselben von dem Stations-Chef beziehungsweise dem Kommandanten etc. ein Offizier zur Begrüssung entgegengesandt. Der letztere ist, wenn der Ort nicht zu den Reichskriegshäfen gehört, von dem Lotsen-Kommandeur, beziehungsweise dem Hafenmeister, zu begleiten.

§ 10.

Der Offizier hat dem Kommando des Schiffs oder Geschwaders amtlich Mitteilung darüber zu machen, ob dasselbe einlaufen und wie lange es sich auf der Reede oder im Hafen aufhalten darf. Geeigneten Falls hat der Offizier, beziehungsweise der ihn begleitende Lotsen-Kommandeur oder Hafenmeister, dem Schiffs- etc. Kommando den Ankerplatz zuzuweisen und die einschlagenden Bestimmungen der Hafenpolizei-Ordnung mitzuteilen. Der Offizier hat sich ferner nach dem Namen und dem Rang des Schiffs- beziehungsweise Geschwader-Kommandanten, dem Namen der Schiffe, der Stärke ihrer Armierung und Bemannung, dem Abgangshafen, dem Zweck der Anwesenheit, der beabsichtigten Dauer des Aufenthaltes und dem Gesundheitszustande der Besatzung zu erkundigen.

Wenn der Schiffs- etc. Kommandant diesem Offizier die Absicht kund gibt, auf der Reede zu verweilen oder in den Hafen einzulaufen, so erbietet sich der Offizier zur Begleitung eines an den Stations-Chef beziehungsweise an den Kommandanten etc. behufs Abstattung der Meldung zu entsendenden Offiziers.

§ 11.

Wenn ein fremdes Kriegsschiff oder Fahrzeug die Befestigungslinie von der See her ausnahmsweise bei Nacht überschreitet, so findet die Entsendung des begrüssenden Offiziers erst am nächsten Morgen statt. Das Schiff darf dann nach Belieben oder, wenn es einen Lotsen genommen hat, nach dessen Anweisung ankern, ist aber gehalten, den Ankerplatz zu wechseln, sobald es darum von dem Stations-Chef, beziehungsweise dem Kommandanten etc. ersucht wird.

§ 12.

Trifft der zur Begrüssung entsendete Offizier an Bord eines bei Tage eingelaufenen fremden Kriegsschiffes oder Fahrzeuges erst dann ein, wenn dasselbe bereits geankert oder festgemacht hat, so finden gleichwohl die vorgeschriebenen Begrüssungen, Mitteilungen und Erkundigungen, so wie die nachträgliche Bestätigung des gewählten oder die Anweisung eines anderen Ankerplatzes statt.

§ 13.

Wenn der Kommandant eines fremden Kriegsschiffes oder Fahrzeuges dem zu seiner Begrüssung entsendeten Offizier gegenüber keine Bereitwilligkeit zeigt, seinerseits einen Offizier zur Anmeldung des Schiffes bei dem Stations-Chef beziehungsweise dem Kommandanten etc. zu entsenden, so kehrt jener ohne weiteres zurück und macht dem Stations-Chef, beziehungsweise dem Kommandanten etc. Meldung.

§ 14.

Wo die Hafenbefestigung eine ausreichende Garnison hat, ist eine Salutirbatterie aufzustellen. Die Batterie führt die deutsche Kriegsflagge. Die Flagge wird gezeigt, sobald sich ein Kriegsschiff nähert. Der von fremden Kriegsschiffen oder Fahrzeugen vor dem Ankern oder ausnahmsweise später gefeuerte Salut wird sofort nach dem letzten Schuss von jener Batterie aus mit einer gleichen Zahl von Schüssen erwidert. In gleicher Weise wird der Salut erwidert, welchen ein fremdes Schiff aus Anlass des Besuchs des Stations-Chefs, beziehungsweise des Kommandanten etc., an Bord beim Verlassen desselben abgiebt.

Den fremden Kriegsschiffen und Fahrzeugen ist hiervon durch die Lotsen, deren sie sich bedienen, Mitteilung zu machen.

§ 15.

Setzt ein fremdes Schiff oder Fahrzeug, nachdem ihm durch einen Offizier auf Befehl des Stations-Chefs, beziehungsweise des Kommandanten etc., mitgeteilt ist, dass das Überschreiten der Befestigungslinie oder einer

anderen innerhalb der Reede oder des Hafens liegenden Grenze nicht gestattet werden könne, dennoch seine Fahrt fort, ohne durch Seegefahr oder Haverei, welche durch die üblichen Signale zu erkennen zu geben ist, dazu gezwungen zu sein, so wird es von den Werken der Hafenbefestigung aus zunächst durch 2 scharfe Schüsse gewarnt, von denen der erste 400 Meter, der zweite 200 Meter seitwärts vom Schiffe zu richten ist. Verfolgt das Schiff dessen ungeachtet seinen Lauf, so wird das Geschützfeuer der Hafenbefestigung zuerst gegen die Masten, dann gegen den Rumpf des Schiffes gerichtet.

Ebenso ist zu verfahren, wenn das Schiff innerhalb der Schussweite der Festungsgeschütze geankert hat und sich auf die Mitteilung des Stations-Chefs, beziehungsweise des Kommandanten etc., dass ihm der fernere Aufenthalt in dem Hafen oder auf der Reede nicht gestattet werden könne, weigert, den Ankerplatz zu verlassen. Bewegt sich oder ankert ein Schiff ungeachtet einer solchen Mitteilung innerhalb der Befestigungslinie, aber ausserhalb der Schussweite der Festungsgeschütze, so ist der Stations-Chef, beziehungsweise der Kommandant etc., berechtigt, jede sonstige zur Vertreibung des Schiffes geeignete Massregel zu ergreifen.

§ 16.

Bei dem Einlaufen eines fremden Kriegsschiffes oder Fahrzeuges in einen unbefestigten Hafen zieht die Hafenpolizei-Behörde die im § 10 vorgeschriebenen Erkundigungen ein und berichtet unverweilt das Ergebnis, wenn im Hafen Truppen stehen, an den Garnisonältesten, andernfalls aber an die Landespolizei-Behörde. Der Bericht ist sofort dem zuständigen General-Kommando und dem Marinestations-Kommando der Ostsee, beziehungsweise Nordsee, mitzuteilen.

75.

FRANCE.

Décrets relatifs au Gouvernement général de l'Afrique équatoriale française; du 15 janvier 1910.

Journal officiel 1910. No. 15.

Le Président de la République française,

Vu l'article 18 du sénatus-consulte du 5 mai 1854;

Vu le décret du 20 novembre 1882 sur le régime financier des colonies;

Vu les décrets des 28 septembre 1897, 5 septembre 1900, 5 juillet 1902, 29 décembre 1903, 11 février 1906 et 26 juin 1908, portant organisation des possessions du Congo français et dépendances,

Sur le rapport du ministre des colonies,

Décrète:

Art. 1er. Le gouvernement général de l'Afrique équatoriale française est constitué par le groupement des colonies du Gabon, du Moyen-Congo et de l'Oubangui Chari-Tchad, y compris le territoire militaire du Tchad, actuellement réunies sous le nom de possessions du Congo français et dépendances.

Les limites et les chefs-lieux de ces différentes colonies ainsi que ceux du territoire militaire du Tchad sont fixés par arrêtés du gouverneur général, pris en conseil de gouvernement et soumis à l'approbation du ministre des colonies.

Le siège du gouvernement général est à Brazzaville.

Art. 2. Le gouverneur général est le dépositaire des pouvoirs de la République dans les colonies ci-dessus énumérées. Tous les services civils et militaires sont placés sous sa haute direction. Il correspond seul avec le Gouvernement. Il est nommé par décret rendu sur la proposition du ministre des colonies.

Art. 3. Le gouverneur général organise, par arrêtés soumis à l'approbation ministérielle les cadres du personnel civil n'ayant pas droit à pension de l'Etat. Il nomme à tous les emplois dans ces cadres. L'organisation des cadres civils du personnel ayant droit à pension de l'Etat et la nomination aux emplois dans ces cadres se font sur sa présentation, dans tous les cas où il n'aurait point reçu délégation pour statuer lui-même. Le gouverneur général répartit, suivant les besoins du service, dans les colonies du groupe tout le personnel civil à l'exception de celui de la justice et de la trésorerie. Il peut, par décision spéciale et limitative, prise sous sa responsabilité, déléguer aux lieutenants gouverneurs son droit de nomination et de répartition.

Art. 4. Le gouverneur général détermine en conseil de gouvernement, et sur la proposition des lieutenants gouverneurs intéressés, les circonscriptions territoriales dans chacune des colonies du groupe. Il prend ou prescrit les mesures nécessaires à leur organisation et à leur développement.

Art. 5. Le mode d'assiette, la quotité et les règles de perception des droits perçus à l'entrée et à la sortie de l'Afrique équatoriale française sur les marchandises et les navires sont établis par le gouverneur général en conseil de gouvernement et approuvés par décret rendu en conseil d'Etat sous réserve des arrangements internationaux et des dispositions régissant les droits de douane.

La perception de tous autres impôts, taxes et redevances, est autorisée par le gouverneur général en conseil de gouvernement, et cela quel que soit le budget destiné à en faire recette. Le gouverneur général transmet immédiatement au ministre des colonies les arrêtés de cette nature. Ceux-ci deviennent exécutoires après approbation, ou de plein droit si leur annulation n'a pas été prescrite dans un délai de quatre mois après la date de la transmission. Aucune perception ne peut être effectuée sans que l'approbation des autorités métropolitaines ne soit intervenue où avant que le délai de quatre mois précité ne soit arrivé à expiration.

Art. 6. Le gouverneur général est assisté d'un secrétaire général du gouvernement général, ayant rang de gouverneur, et d'un conseil du gouvernement, dont la composition et les attributions sont déterminées par un décret spécial.

Sauf désignation spéciale du ministre des colonies, le gouverneur des colonies secrétaire général remplace par intérim le gouverneur général.

Les colonies composant le groupe conservent leur autonomie administrative et financière. Elles sont administrées, sous la haute autorité du gouverneur général, par des gouverneurs des colonies portant le titre de lieutenants gouverneurs.

Art. 7. Les dépenses d'intérêt commun à l'Afrique équatoriale française sont inscrites à un budget général arrêté en conseil de gouvernement par le gouverneur général et approuvé par décret rendu sur la proposition du ministre des colonies.

Ce budget pourvoit aux dépenses:

1⁰ Du gouvernement général;

2⁰ Des services généraux, tels qu'ils sont déterminés par arrêtés du gouverneur général;

3⁰ Du service de la dette;

4⁰ De l'inspection mobile des colonies;

5⁰ Du service de la justice française;

6⁰ Des travaux publics d'intérêt général, dont la nomenclature est arrêtée chaque année par le gouverneur général en conseil de gouvernement et approuvée par le ministre des colonies;

7⁰ Des frais de perception des recettes attribuées au budget général.

Le budget général est alimenté en recettes:

1⁰ Par les recettes des services mis à sa charge;

2⁰ Par le produit des droits de toute nature, perçus à l'entrée et à la sortie dans toute l'Afrique équatoriale française, sur les marchandises et les navires, à l'exception des droits d'octroi communaux;

3⁰ Par les produits miniers de toute nature;

4⁰ Par les recettes domaniales autres que les redevances provenant des actes de concession octroyés par les lieutenants gouverneurs.

Art. 8. Le budget général peut recevoir des subventions de la métropole ou être appelé à verser des contributions à celle-ci. Le montant de ces subventions est fixé annuellement par la loi de finances.

Le budget général peut également recevoir des contributions des budgets des diverses colonies de l'Afrique équatoriale française ou leur attribuer des subventions.

Le montant de ces allocations est fixé annuellement par le gouverneur général en conseil de gouvernement et arrêté définitivement par l'acte portant approbation des budgets.

Art. 9. Les opérations de recettes et de dépenses effectuées pour le compte de l'Afrique équatoriale française sur des fonds provenant d'emprunts que le gouvernement général a été ou serait autorisé à conclure figureront

à des budgets spéciaux de fonds d'emprunt annexés au budget général. Ces budgets spéciaux sont préparés, arrêtés et administrés dans les mêmes conditions que les autres budgets du gouvernement général.

Art. 10. Le gouverneur général est ordonnateur du budget général et des budgets annexes. Il a la faculté de confier ce pouvoir par délégation spéciale au secrétaire général du gouvernement général. Il peut déléguer les crédits du budget général et des budgets annexes aux lieutenants gouverneurs.

Art. 11. Les budgets locaux des colonies de l'Afrique équatoriale française sont alimentés par les recettes perçues sur les territoires de ces colonies, à l'exception de celles attribuées au budget général. Ils sont établis par les lieutenants gouverneurs en conseil d'administration, arrêtés par le gouverneur général en conseil de gouvernement, et approuvés par décrets rendus sur la proposition du ministre des colonies.

Chaque lieutenant gouverneur est, sous le contrôle du gouverneur général, ordonnateur du budget de la colonie qu'il administre.

Art. 12. Les recettes et dépenses afférentes au territoire militaire du Tchad constituent un budget spécial annexé au budget local de la colonie de l'Oubangui-Chari-Tchad. Il est établi et arrêté dans les mêmes conditions que celui-ci. Le commandant du territoire militaire du Tchad en est sous-ordonnateur sous l'autorité du lieutnant gouverneur de l'Oubangui-Chari-Tchad.

Le budget local de l'Oubangui-Chari-Tchad peut recevoir des contributions de ce budget ou lui attribuer des subventions.

Art. 13. Sont abrogées toutes les dispositions antérieures en ce qu'elles ont de contraire au présent texte, dont l'application sera réglée par des arrêtés du gouverneur général.

Art. 14. Le ministre des colonies est chargé de l'exécution du présent décret, qui sera inséré au *Journal officiel* de la République française, au *Bulletin des lois* et au *Bulletin officiel* des colonies.

Fait à Paris, le 15 janvier 1910.

A. Fallières.

Par le Président de la République:

Le ministre des colonies,
Georges Trouillot.

Le Président de la République française,

Vu les décrets des 11 octobre 1899, 4 mars 1903, 3 mars 1906, portant réorganisation des conseils du gouvernement et d'administration du Congo français;

Vu le décret du 15 janvier 1910, portant création et organisation du gouvernement général de l'Afrique équatoriale française;

Sur le rapport du ministre des colonies,

Décrète:

Art. 1er. Le conseil du gouvernement de l'Afrique équatoriale française est composé comme suit:

Le gouverneur général, président.

Le gouverneur des colonies, secrétaire général du gouvernement général.

Les lieutenants gouverneurs du Gabon, du Moyen-Congo et de l'Oubangui-Chari-Tchad.

Le commandant supérieur des troupes.

Le chef du service judiciaire.

Le délégué de l'Afrique équatoriale française au conseil supérieur des colonies.

Un des membres notables des conseils d'administration de chacune des colonies du groupe annuellement désigné par le gouverneur général, sur la proposition des lieutenants gouverneurs de ces colonies.

Le chef du cabinet du gouverneur général, secrétaire.

Art. 2. En cas d'absence ou d'empêchement du gouverneur général, le gouverneur des colonies, secrétaire général du gouvernement général, préside le conseil de gouvernement.

L'inspecteur des colonies chef de mission a le droit d'assister au conseil de gouvernement ou de s'y faire représenter par un des inspecteurs qui l'accompagnent. Il siège en face du président.

Les chefs des services civils et militaires peuvent être appelés au conseil de gouvernement lorsqu'il s'y traite des affaires de leur compétence.

En cas d'absence ou d'empêchement, les membres titulaires du conseil de gouvernement sont remplacés par les fonctionnaires et officiers réglementairement appelés à les suppléer.

Les membres intérimaires, à l'exception du secrétaire général du gouverneur général et des chefs de colonie intérimaires qui siègent immédiatement après les lieutenants gouverneurs titulaires, prennent rang après les membres fonctionnaires titulaires.

La présence entre les membres intérimaires se règle suivant leur grade ou leur assimilation et leur ancienneté.

Art. 3. Le conseil de gouvernement tient au moins une session par an. Il se réunit sur la convocation du gouverneur général.

Art. 4. Le gouverneur général arrête en conseil de gouvernement les divers budgets et comptes de l'Afrique équatoriale française.

Il établit, dans les mêmes conditions et sous réserve de l'approbation des autorités métropolitaines compétentes, le mode d'assiette, les règles de perception et la quotité des droits de toute nature perçus en Afrique équatoriale française, sous réserve des arrangements internationaux et des dispositions régissant les droits de douane.

Il détermine également en conseil de gouvernement les circonscriptions administratives dans chacune des colonies du groupe.

Art. 5. Le conseil de gouvernement donne son avis sur toutes les questions intéressant l'Afrique équatoriale française et qui sont soumises à son examen par le gouverneur général.

Art. 6. Il est créé une commission permanente du conseil de gouvernement, qui peut être appelée à donner son avis sur les affaires susceptibles d'être soumises à l'examen de ce conseil. Cet avis peut remplacer celui du conseil, sauf en ce qui concerne l'établissement des budgets et des taxes.

La commission permanente est convoquée et présidée par le gouverneur général.

Elle siège à Brazzaville et comprend:

Le gouverneur général, président.

Le gouverneur des colonies secrétaire général du gouvernement général.

Les lieutenants gouverneurs présents au chef-lieu.

Le commandant supérieur des troupes.

Le chef du service judiciaire.

Le délégué de l'Afrique équatoriale française au conseil supérieur des colonies.

Le conseiller du gouvernement, non fonctionnaire, du Moyen-Congo.

Le chef de cabinet du gouverneur général, secrétaire.

Les dispositions de l'article 2 du présent décret sont applicables aux réunions de la commission permanente.

Art. 7. Toutes dispositions contraires au présent décret sont et demeurent abrogées.

Art. 8. Le ministre des colonies est chargé de l'exécution du présent décret, qui sera inséré au *Journal officiel* de la République française, au *Bulletin des lois* et au *Bulletin officiel* de la colonie.

Fait à Paris, le 15 janvier 1910.

A. Fallières.

Par le Président de la République:

Le ministre des colonies,
Georges Trouillot.

Le Président de la République française,

Vu les décrets des 5 août et 7 septembre 1881, concernant l'organisation et la compétence des conseils du contentieux administratif des colonies;

Vu les décrets des 11 octobre 1899, 4 mars et 29 décembre 1903, 3 mars 1906, portant réorganisation des conseils du gouvernement et d'administration du Congo français;

Vu le décret du 15 janvier 1910, portant création et organisation du gouvernement général de l'Afrique équatoriale française;

Vu le décret du 15 janvier 1910 portant règlement du contentieux administratif du gouvernement général de l'Afrique équatoriale française;

Sur le rapport du ministre des colonies,

Décrète:

Art. 1er. Les conseils d'administration des colonies du Gabon, du Moyen-Congo et de l'Oubangui-Chari-Tchad sont composés comme suit:

Le lieutenant gouverneur, président.

Le chef du secrétariat général.

L'inspecteur des affaires administratives.

Le chef de bataillon commandant les troupes stationnées dans la colonie.

Le procureur de la République pour les colonies du Gabon et du Moyen-Congo et le juge de paix à compétence étendue du chef-lieu de la colonie pour l'Oubangui-Chari-Tchad.

Deux membres choisis parmi les citoyens français notables, jouissant de leurs droits civils et politiques et désignés pour une période de deux années par le gouverneur général sur la présentation du lieutenant gouverneur.

Deux citoyens français notables, jouissant de leurs droits civils et politiques, seront en outre désignés pour une période de deux années par le gouverneur général, sur la présentation du lieutenant gouverneur intéressé, à l'effet de remplacer éventuellement comme suppléants les membres titulaires absents ou empêchés.

Le chef du cabinet du lieutenant gouverneur est secrétaire archiviste.

Art. 2. L'inspecteur des colonies chef de mission a le droit d'assister aux séances du conseil d'administration ou de s'y faire représenter par un des inspecteurs qui l'accompagnent. Il siège en face du président.

Les chefs des services civils et militaires peuvent être appelés au conseil d'administration par le lieutenant gouverneur lorsqu'il s'y traite des affaires de leur compétence.

Le conseil peut entendre en outre, et dans les mêmes conditions, tous fonctionnaires, agents ou autres personnes qui, par leurs connaissances spéciales, sont propres à l'éclairer.

En cas d'absence ou d'empêchement, les membres titulaires du conseil d'administration sont remplacés par les fonctionnaires, officiers ou notables réglementairement appelés à les suppléer.

Les membres fonctionnaires intérimaires prennent rang après les membres fonctionnaires titulaires. La préséance entre les membres intérimaires se règle suivant leur grade ou leur assimilation et leur ancienneté.

Art. 3. Le conseil d'administration se réunit sur la convocation du lieutenant gouverneur.

Il est obligatoirement consulté:

1° Sur l'établissement des budgets et des comptes;

2° Sur le mode d'assiette, les règles de perception et la quotité des droits à percevoir dans la colonie;

3° Sur la détermination des circonscriptions administratives de la colonie;

4° Sur les aliénations temporaires ou définitives du domaine privé ou public;

5° Sur les marchés et adjudications pour ouvrages et fournitures quelconques au-dessus de 1,500 fr.;

6° Sur l'expropriation pour cause d'utilité publique et sur les acquisitions d'immeubles.

Art. 4. Les conseils d'administration donnent en outre leur avis sur toutes les questions intéressant la colonie et qui sont soumises à leur examen par les lieutenants gouverneurs.

Art. 5. Les conseils d'administration se constituent en conseil de contentieux administratif par l'adjonction de deux magistrats ou fonctionnaires, désignés annuellement par les lieutenants gouverneurs. Dans ce cas, les conseils fonctionnent conformément aux dispositions des décrets des 5 août et 7 septembre 1881.

Art. 6. Sont abrogées toutes les dispositions antérieures contraires au présent décret.

Art. 7. Le ministre des colonies est chargé de l'exécution du présent décret, qui sera inséré au *Journal officiel* de la République française, au *Bulletin des lois* et au *Bulletin officiel* du ministère des colonies.

Fait à Paris, le 15 janvier 1910.

A. Fallières.

Par le Président de la République:
Le ministre des colonies,
Georges Trouillot.

Le Président de la République française,

Vu les décrets des 5 août et 7 septembre 1881, concernant l'organisation et la compétence des conseils du contentieux administratif des colonies;

Vu les décrets des 11 octobre 1899, 4 mars 1903, 3 mars 1906, portant réorganisation des conseils de gouvernement et d'administration du Congo français;

Vu le décret du 15 janvier 1910, portant création et organisation du gouvernement général de l'Afrique équatoriale française;

Sur le rapport du ministre des colonies,

Décrète:

Art. 1er. Le règlement du contentieux administratif du gouvernement général de l'Afrique équatoriale française est attribué aux conseils du contentieux du Gabon, du Moyen-Congo et de l'Oubangui-Chari-Tchad suivant les règles de la compétence territoriale de ces tribunaux.

Art. 2. Sont abrogées toutes les dispositions antérieures en ce qu'elles ont de contraire au présent décret.

Art. 3. Le ministre des colonies est chargé de l'exécution du présent décret, qui sera inséré au *Journal officiel* de la République française, au *Bulletin des lois* et au *Bulletin officiel* des colonies.

Fait à Paris, le 15 janvier 1910.

A. Fallières.

Par le Président de la République:
Le ministre des colonies,
Georges Trouillot.

76.

FRANCE.

Décrets relatifs aux engagements des étrangers à la légion étrangère; du 15 janvier 1910 et du 11 mars 1911.

Journal officiel 1910, No. 20; 1911, No. 72.

1.

Le Président de la République française,

Vu l'ordonnance du 10 mars 1831, relative aux engagements des étrangers à la légion étrangère,

Sur le rapport du ministre de la guerre,

Décrète:

Art. 1er. Les articles 6 et 7 de l'ordonnance du 10 mars 1831*) sont abrogés et remplacés par l'article suivant:

Pour être admis à s'engager, les étrangers doivent être porteurs:

1⁰ De leur acte de naissance ou d'une pièce équivalente;

2⁰ D'un certificat de bonnes vie et moeurs;

3⁰ D'un certificat délivré par l'autorité militaire constatant qu'ils ont les qualités requises pour faire un bon service.

En l'absence des deux premières pièces indiquées ci-dessus, il est passé outre à l'engagement.

Art. 2. Le ministre de la guerre est chargé de l'exécution du présent décret, qui sera publié au Journal officiel et inséré au Bulletin des lois.

Fait à Paris, le 15 janvier 1910.

A. Fallières.

Par le Président de la République:
Le Ministre de la guerre,
Brun.

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*) Ordonnance relative à la formation de la Légion étrangère, du 10 mars 1831 (Bulletin des lois IXème série, II, 2 p. 236 — No. 1313):

Art. 6. Pour être reçus à s'engager, les étrangers devront n'avoir pas plus de quarante ans, et avoir au moins dix-huit ans accomplis et la taille d'un mètre cinquante-cinq centimètres.

Ils devront en outre être porteurs,

1⁰ De leur acte de naissance ou de toute autre pièce équivalente;

2⁰ D'un certificat de bonnes vie et moeurs;

3⁰ D'un certificat d'acceptation de l'autorité militaire, constatant qu'ils ont les qualités requises pour faire un bon service.

Art. 7. En l'absence des deux premières pièces indiquées à l'article précédent, l'étranger sera renvoyé par-devant l'officier général commandant, qui décidera si l'engagement peut être reçu.

2.

Le Président de la République française,

Vu la loi du 13 mars 1875, article 3;

Vu la loi du 22 septembre 1881;

Vu la loi du 21 mars 1905, article 92;

Vu l'ordonnance du 10 mars 1831;

Vu le décret du 15 janvier 1910, modifiant les articles 6 et 7 de l'ordonnance du 10 mars 1831;

Sur le rapport du ministre de la guerre,

Décrète:

Art. 1er. Le décret susvisé du 15 janvier 1910 est abrogé.

Art. 2. Les articles 6 et 7 de l'ordonnance du 10 mars 1831 sont remis en vigueur.

Art. 3. Le ministre de la guerre est chargé de l'exécution du présent décret.

Fait à Paris, le 11 mars 1911.

A. Fallières.

Par le Président de la République:

Le ministre de la guerre,
Maurice Berteaux.

77.

FRANCE.

Loi autorisant les sujets tunisiens à contracter des engagements volontaires dans l'armée française; du 13 avril 1910.

Journal officiel 1910. No. 103.

Loi autorisant les sujets tunisiens à contracter des engagements volontaires dans les corps français de l'armée métropolitaine et coloniale et dans l'armée de mer.

Le Sénat et la Chambre des députés ont adopté,

Le Président de la République promulgue la loi dont la teneur suit:

Article unique. Les sujets tunisiens sont autorisés à contracter, dans les corps français de l'armée métropolitaine et coloniale stationnés en France, et dans l'armée de mer, des engagements volontaires de trois, quatre ou cinq ans, dans des conditions qui seront fixées par décret.

La présente loi, délibérée et adoptée par le Sénat et par la Chambre des députés, sera exécutée comme loi de l'Etat.

Fait à Paris, le 13 avril 1910.

A. Fallières.

Par le Président de la République:

Le ministre de la guerre,
Brun.

Le ministre des affaires étrangères,
S. Pichon.

Le ministre de la marine,
de Lapeyrère.

78.

GRANDE-BRETAGNE.

Loi sur la navigation aérienne; du 2 juin 1911.

Publication officielle.

An Act to provide for the protection of the public against dangers arising from the Navigation of Aircraft.

[1 & 2 Geo. 5, ch. 4.] [2nd June 1911.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) A Secretary of State may, for the purpose of protecting the public from danger, from time to time by order prohibit the navigation of aircraft over such areas as may be prescribed in the order, and, if any person navigates an aircraft over any such area in contravention of any such order, he shall be guilty of an offence under this Act, unless he proves that he was compelled to do so by reason of stress of weather or other circumstances over which he had no control.

(2) Any such order may apply either generally to all aircraft or to aircraft of such classes and descriptions only as may be specified in the order, and may prohibit the navigation of aircraft over any such prescribed area either at all times or at such times or on such occasions only as may be specified in the order, and either absolutely or subject to such exceptions or conditions as may be so specified.

2. (1) If any person is guilty of an offence under this Act, he shall be liable on conviction on indictment or on summary conviction to

imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred pounds, or to both such imprisonment and fine.

(2) Any person aggrieved by a summary conviction under this Act may, in England or Ireland, appeal to a court of quarter sessions, and in Scotland in like manner as in the case of a conviction under the Motor Car Act, 1903, as provided by section eighteen of that Act.

3. This Act may be cited as the Aerial Navigation Act 1911.

79.

GRANDE-BRETAGNE.

Loi concernant l'emblème de la Croix-rouge; du 18 août 1911.

Publication officielle.

An Act to make such amendments in the Law as are necessary to enable certain reserved provisions of the Second Geneva Convention to be carried into effect.

[1 & 2 Geo. 5, ch. 20.] [18th August 1911.]

Whereas his Majesty has ratified, with certain reservations, the Convention for the amelioration of the condition of the wounded and sick of armies in the field, drawn up in Geneva in the year one thousand nine hundred and six*), and it is desirable, in order that those reservations may be withdrawn, that such amendments should be made in the law as are in this Act contained:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) As from the commencement of this Act it shall not be lawful for any person to use for the purposes of his trade or business, or for any other purpose whatsoever, without the authority of the Army Council, the heraldic emblem of the red cross on a white ground formed by reversing the Federal colours of Switzerland, or the words „Red Cross" or „Geneva Cross," and, if any person acts in contravention of this provision, he shall be guilty of an offence against this Act, and shall be liable on summary conviction to a fine not exceeding ten pounds, and to forfeit any goods upon or in connection with which the emblem or words were used.

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*) V. N. R. G. 3. s. II, p. 620.

(2) Where a company or society is guilty of any such contravention, without prejudice to the liability of the company or society, every director, manager, secretary, and other officer of the company or society who is knowingly a party to the contravention shall be guilty of an offence against this Act and liable to the like penalty.

(3) Nothing in this section shall affect the right (if any) of the proprietor of a trade mark registered before the passing of this Act, and containing any such emblem or words, to continue to use such trade mark for a period of four years from the passing of this Act, and, if the period of the registration or of the renewal of registration of any such trade mark expires during those four years, the registration thereof may be renewed until the expiration of those four years, but without payment of any fee.

(4) Proceedings under this Act shall not in England or Ireland be instituted without the consent of the Attorney-General.

(5) This Act shall extend to His Majesty's possessions outside the United Kingdom, subject to such necessary adaptations as may be made by Order in Council.

2. This Act may be cited as the Geneva Convention Act, 1911.

80.

AUTRICHE.

Loi concernant la protection de l'emblème et de la dénomination de „Croix-Rouge"; du 23 août 1912.

Reichsgesetzblatt 1912. No. LXXV.

Gesetz vom 23. August 1912, betreffend den Schutz des Zeichens und des Namens des Roten Kreuzes.

Mit Zustimmung beider Häuser des Reichsrates finde Ich anzuordnen, wie folgt:

§ 1.

Zum Gebrauche des durch die Genfer Konvention vom 6. Juli 1906 (Nr. 191 R. G. Bl. ex 1911)*) dem militärischen Sanitätsdienste vorbehaltenen Zeichens des Roten Kreuzes auf weissem Grunde und zum Gebrauche der Worte „Rotes Kreuz" oder „Genfer Kreuz" im öffentlichen Verkehre sind, ausserhalb des militärischen Dienstes, nur die Österreichische Gesellschaft vom Roten Kreuze, deren Hilfs- und Zweigvereine, der Deutsche Ritterorden, der souveräne Malteserritterorden und die Organe dieser Körperschaften nach Massgabe ihrer Satzungen berechtigt.

*) V. N. R. G. 3. s. II, p. 620.

Der Minister des Innern kann im Einvernehmen mit dem Minister für Landesverteidigung auch anderen, dem militärischen Sanitätsdienste gewidmeten Körperschaften den Gebrauch des Roten Kreuzes in bestimmtem Umfange und in bestimmter Art durch Verordnung gestatten.

§ 2.

Wer, ohne hiezu berechtigt zu sein, das Genfer Zeichen oder die Worte „Rotes Kreuz“ oder „Genfer Kreuz“ gebraucht, oder dieses Zeichen oder diese Benennung, zwar mit Veränderungen, aber doch in einer Weise gebraucht, dass hiedurch der Eindruck des Genfer Zeichens wachgerufen wird, ist von der politischen Behörde an Geld bis zu fünfhundert Kronen oder mit Arrest bis zu einem Monate zu bestrafen.

Gesetzwidrig bezeichnete Gegenstände sind, ohne Rücksicht auf die Fällung eines Straferkenntnisses, mit Beschlag zu belegen. Die politische Behörde verfügt auf Kosten des Besitzers die Beseitigung der ungesetzlichen Bezeichnung und erklärt die Gegenstände, wenn die Beseitigung der Bezeichnung nicht möglich ist, als verfallen. Verfallene Gegenstände werden der Österreichischen Gesellschaft vom Roten Kreuze zur Verfügung gestellt.

§ 3.

Die bereits erteilten Bewilligungen zum Gebrauche des Zeichens oder des Namens des „Roten Kreuzes“ sowie die bereits erworbenen Marken- oder Musterrechte, deren Gebrauch den Bestimmungen dieses Gesetzes widerspricht, bleiben, sofern sie nicht früher erloschen sind, bis zum 27. September 1913 aufrecht. Bis zu demselben Zeitpunkte haben die Inhaber registrierter Firmen, in denen die Worte „Rotes Kreuz“ oder „Genfer Kreuz“ enthalten sind, die entsprechende Änderung ihrer Firma vorzunehmen, widrigenfalls sie hiezu vom Handelsgerichte nach Massgabe des Artikels 26 des Handelsgesetzbuches und des § 12 des Einführungsgesetzes zu demselben anzuhalten sind.

§ 4.

Dieses Gesetz tritt mit dem Tage seiner Kundmachung in Kraft.

Das Gesetz vom 14. April 1903, Nr. 85 R. G. Bl.*) ist aufgehoben.

§ 5.

Mit dem Vollzuge dieses Gesetzes ist Mein Minister des Innern im Einvernehmen mit den andern beteiligten Ministern beauftragt.

Bad Ischl, am 23. August 1912.

Franz Joseph m. p.

Stürgkh m. p. Georgi m. p.
Hochenburger m. p. Heinold m. p.
Roessler m. p. Truka m. p.

*) V. N. R. G. 3. s. II, p. 494.

81.

NORVÈGE, BELGIQUE.

Arrangement commercial; des 7 et 18 octobre 1905.

Recueil des Traités de la Norvège (1907), p. 141.

Lettre du ministre des affaires étrangères à Kristiania au gérant du consulat général de Belgique dans la dite ville, en date du 7 octobre 1905.

Ministère des Affaires Etrangères.

Kristiania, le 7 octobre 1905.

Monsieur le Consul Général,

Le traité de commerce et de navigation entre la Norvège et la Belgique expire le 15 de ce mois par suite de sa dénonciation par la Norvège.

Des négociations au sujet de la réglementation future des relations de commerce et de navigation entre les deux pays ont été ouvertes, mais n'ont jusqu'à présent, par suite des évènements politiques, abouti à aucun résultat définitif.

J'ai l'honneur de m'adresser à Votre bienveillante entremise en Vous priant de vouloir bien porter ce qui suit à la connaissance du gouvernement royal belge:

A l'expiration du traité sus-nommé, la Belgique sera, sous réserve de réciprocité, traitée comme la nation la plus favorisée pour ce qui regarde le commerce et la navigation en Norvège. En ce qui concerne particulièrement les marchandises pour lesquelles la taxe douanière en vertu de l'art. 14 du traité a été fixée pour l'importation en Norvège, je me permets de remarquer qu'elles seront traitées suivant certaines taxes minimales récemment adoptées, destinées à entrer en vigueur le 16 octobre, ou suivant les taxes minimales du tarif douanier en vigueur.

Les dispositions douanières concernant ces marchandises sont contenues dans les nos. 39—1905 et 48—1905 du Bulletin des lois norvégien, dont des exemplaires sont joints à ce pli. Les taxes énumérées dans le numéro dernièrement mentionné du bulletin des lois remplacent les taxes établies pour les marchandises en question dans le numéro antérieur.

En accordant à la Belgique la position sus-mentionnée comme la nation la plus favorisée, il est supposé de la part de la Norvège, ainsi qu'il a été plus haut mentionné, que la Norvège sera en matière de commerce et de navigation traitée comme la nation la plus favorisée en Belgique.

En Vous demandant de vouloir bien me communiquer, aussitôt que faire se pourra, que cette supposition viendra à être remplie par la Belgique, je Vous prie d'agréer etc.

J. Løvland.

Monsieur Ch. Delgobe,
Consul général a. i. de Belgique.

Par communication verbale du 18 octobre 1905 le gérant du consulat général de Belgique à Kristiania a donné l'assurance au ministère des affaires étrangères dans la dite ville, que, de leur côté, les produits norvégiens continueront à être traités à l'entrée en Belgique comme produits de la nation la plus favorisée.

82.

NORVÈGE, BELGIQUE.

Traité de commerce et de navigation; signé à Bruxelles, le 27 juin 1910.*)

Overenskomster med fremmede Stater 1911. No. 6.

Traité de Commerce et de Navigation entre la Norvège et la Belgique.

Sa Majesté le Roi de Norvège et Sa Majesté le Roi des Belges, animés du désir de faciliter et d'étendre les relations de commerce et de navigation entre la Norvège et la Belgique, ont résolu de conclure un traité à cet effet, et ont nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté Le Roi de Norvège:

Monsieur le Dr. Hagerup, Grand Croix de l'ordre de Saint-Olaf, Grand Cordon de l'ordre de Leopold de Belgique, etc. etc., Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges, et

Sa Majesté le Roi des Belges:

Monsieur Davignon, Grand Croix de l'ordre de la Couronne, Officier de l'ordre de Léopold etc. etc. Membre de la Chambre des Représentants, Son Ministre des Affaires Etrangères,

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Article premier.

Il y aura pleine et entière liberté de commerce et de navigation entre la Norvège et la Belgique.

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*) Les ratifications ont été échangées à Bruxelles, le 25 septembre 1911.

Les sujets de chacune des Hautes Parties contractantes jouiront dans le territoire de l'autre, en matière de commerce et d'industrie, des mêmes droits et faveurs, qui sont ou seront accordés aux sujets de toute autre nation, et ne pourront être assujettis à d'autres ou plus fortes contributions, restrictions ou obligations générales ou locales que celles qui seront imposées aux sujets de la nation la plus favorisée.

Les ressortissants de chacune des Hautes Parties contractantes seront exempts, sur le territoire de l'autre, de tout service militaire, aussi bien dans l'armée régulière et la marine que dans la milice et la garde civique. Ils ne seront astreints, en temps de paix et en temps de guerre qu'aux prestations et aux réquisitions militaires imposées aux nationaux, et ils auront réciproquement droit aux indemnités établies en faveur des nationaux par les lois en vigueur dans les deux pays.

Article 2.

Les Norvégiens en Belgique et les Belges en Norvège seront, à titre de réciprocité, autorisés dans les mêmes conditions que les ressortissants du tiers Etat le plus favorisé, à acquérir et à posséder des biens meubles et immeubles et à en disposer par vente, échange, don, testament, ou autrement, ainsi qu'à recueillir des successions, soit ab intestat, soit par testament.

Les Norvégiens en Belgique et les Belges en Norvège ne pourront être assujettis, pour leurs propriétés, mobilières ou immobilières, à d'autres charges, restrictions, taxes ou impôts que ceux auxquels seront soumis les sujets de la nation la plus favorisée.

Les droits connus sous le nom de droit d'aubaine et de détraction ne seront pas, à l'avenir, exigés lorsqu'en cas de succession, donation entre vifs, vente, émigration ou autre, il y aura lieu à une translation de biens de Norvège en Belgique ou de Belgique en Norvège.

Article 3.

Seront considérés comme norvégiens en Belgique et comme belges en Norvège les navires qui navigueront sous les pavillons respectifs et qui seront porteurs des papiers de bord et des documents exigés pour la justification de la nationalité des bâtiments de commerce, par les lois de l'Etat auquel ils appartiennent respectivement.

Article 4.

Les navires de l'une des Hautes Parties contractantes qui entreront sur lest ou chargés dans les ports de l'autre, ou qui en sortiront, quel que soit le lieu de leur départ ou leur destination, y seront traités, sous tous les rapports, sur le même pied que les navires nationaux. Tant à leur entrée que durant leur séjour et à leur sortie, ils ne payeront d'autres ni de plus forts droits de tonnage, de phare, de pilotage, de port, de remorque, de quarantaine ou autres charges qui pèsent sur la coque du navire, sous quelque dénomination que ce soit, perçus au profit ou au

nom de l'Etat, de fonctionnaires publics, de communes ou de corporations ou établissements quelconque, que ceux dont sont ou seront passibles les navires nationaux.

Article 5.

Seront complètement affranchis des droits de tonnage et d'expédition dans les ports respectifs:

1°. Les navires qui, arrivés sur lest, de quelque lieu que ce soit, en sortiront également sur lest;

2°. Les navires qui, se rendant d'un port de l'un des deux Etats dans un ou plusieurs ports du même Etat, soit pour y décharger tout ou partie de leur cargaison, soit pour y composer ou pour y compléter leur chargement, justifieront avoir déjà acquitté ces droits;

3°. Les navires qui, entrés avec chargement dans un port, soit volontairement, soit en relâche forcée, en sortiront sans avoir fait aucune opération de commerce.

Ne seront pas considérées, en cas de relâche forcée, comme opérations de commerce: le débarquement et le rechargement des marchandises pour la réparation du navire, le transbordement sur un autre navire en cas d'innavigabilité du premier, les achats nécessaires au ravitaillement des équipages, et la vente des marchandises avariées, lorsque l'administration des douanes en aura donné l'autorisation.

Article 6.

En ce qui concerne le placement des navires, leur chargement et déchargement dans les ports, rades, havres et bassins, et généralement pour toutes les formalités et dispositions quelconques auxquelles peuvent être soumis les navires de commerce, leurs équipages et leurs cargaisons, il est convenu qu'il ne sera accordé aux navires de l'une des Hautes Parties contractantes aucun privilège ni aucune faveur qui ne le soit également aux navires de l'autre, la volonté des deux Parties étant que, sous ce rapport, leurs bâtiments soient traités sur le pied d'une parfaite égalité.

Article 7.

Les navires de chacune des deux Parties entrant dans l'un des ports de l'autre pour compléter leur chargement ou en débarquer une partie, pourront, en se conformant toutefois aux lois et règlements des Etats respectifs, conserver à leur bord la partie de la cargaison qui serait destinée à un autre port, soit du même pays, soit d'un autre, et la réexporter, sans être astreints à payer pour cette dernière partie de leur cargaison aucun droit de douane, sauf les droits de surveillance, lesquels d'ailleurs ne pourront être perçus qu'au taux fixé pour la navigation nationale.

Article 8.

Les marchandises de toute espèce dont l'importation dans les ports de Belgique est ou sera légalement permise sur des bâtiments belges, pourront également y être importées sur des bâtiments norvégiens sans

être assujetties à d'autres ou de plus forts droits, de quelque dénomination que ce soit, que si les mêmes marchandises étaient importées sur des bâtiments nationaux.

Réciproquement, les marchandises de toute espèce dont l'importation dans les ports de Norvège est ou sera légalement permise sur des bâtiments norvégiens, pourront également y être importées sur des bâtiments belges, sans être assujetties à d'autres ou de plus forts droits, de quelque dénomination que ce soit, que si les mêmes marchandises étaient importées sur des bâtiments nationaux.

Il est fait exception aux stipulations du présent Traité en ce qui concerne les avantages dont les produits de la pêche nationale sont ou pourront être l'objet dans l'un ou l'autre des pays respectifs.

Article 9.

Les marchandises de toute nature qui seront exportées de la Belgique par navires norvégiens, ou de la Norvège par navires belges, pour quelque destination que ce soit, ne seront pas assujetties à d'autres droits ni formalités de sortie, que si elles étaient exportées par navires nationaux, et elles jouiront, sous l'un et l'autre pavillon, de toutes primes ou restitutions de droits ou autres faveurs qui sont ou seront accordées, dans chacun des pays respectifs, à la navigation nationale.

Article 10.

La faculté de faire le cabotage de port à port, dans le territoire des deux Etats respectifs, se réglera d'après les lois et ordonnances en vigueur. Toutefois, il est convenu entre les deux Hautes Parties contractantes que les navires et les ressortissants de chacune d'elles jouiront, sous tous les rapports, dans le territoire de l'autre, des faveurs et privilèges qui sont ou qui seront accordés aux nations les plus favorisées.

Article 11.

Pendant le temps fixé par la législation de chacun des pays respectifs pour l'entreposage des marchandises, celles-ci seront traitées, en attendant leur transit, leur réexportation ou leur mise en consommation, de l'une et de l'autre part, à l'instar des marchandises importées sous pavillon national.

Ces objets, en aucun cas, ne payeront de plus forts droits d'entrepôt et ne seront assujettis à d'autres formalités que s'ils avaient été importés sous pavillon national ou provenaient du pays le plus favorisé.

Article 12.

Les marchandises de toute nature traversant l'un des deux Etats seront réciproquement exemptes de tout droit de transit, sans préjudice du régime spécial concernant la poudre à tirer et les armes et munitions de guerre.

Le traitement de la nation la plus favorisée est réciproquement garanti à chacun des deux pays pour tout ce qui concerne le transit.

Article 13.

Aucune des deux Hautes Parties contractantes ne soumettra l'autre à une prohibition d'importation, d'exportation ou de transit qui ne soit appliquée en même temps à toutes les autres nations, sauf les prohibitions ou restrictions temporaires que l'une ou l'autre des Parties jugerait nécessaire d'établir pour des motifs sanitaires, pour empêcher la propagation d'épizooties ou la destruction des récoltes, ou bien en vue d'événements de guerre.

Article 14.

Ni l'une ni l'autre des deux Hautes Parties contractantes n'imposera sur les marchandises provenant du sol ou de l'industrie de l'autre Partie, d'autres ni de plus forts droits d'importation que ceux qui sont ou seront imposés sur les mêmes marchandises provenant de tout autre Etat étranger.

Chacune des deux Parties s'engage à faire profiter l'autre de toute faveur, de tout privilège ou abaissement dans les tarifs des droits à l'importation ou à l'exportation que l'une d'elles pourrait accorder à une tierce Puissance. Elles s'engagent également à n'établir l'une envers l'autre aucun droit d'importation ou d'exportation qui ne soit, en même temps, applicable aux autres nations.

Article 15.

Les droits intérieurs perçus pour le compte de l'Etat, des municipalités ou d'autres corporations et dont sont ou seront grevées la production, la fabrication ou la consommation de n'importe quel genre de marchandises sur le territoire d'une des Hautes Parties contractantes, ne pourront être appliqués aux produits originaires de l'autre d'une manière différente ni plus onéreuse qu'aux produits similaires indigènes ou de toute autre provenance.

Toutefois, rien ne s'opposera à ce que le blé et autres grains belges qui seront employés en Norvège à la fabrication du malt ou que les pommes de terre belges qui sont importées en Norvège pour être employées dans l'industrie, puissent être grevés d'un droit intérieur spécial, de même que le blé et les pommes de terre importés d'autres pays étrangers.

Il est entendu que le présent article ne vise ni les droits ou taxes d'entrée, ni les droits d'accise perçus sur les marchandises exemptes de droits ou taxes d'entrée.

Article 16.

Les Hautes Parties contractantes déclarent reconnaître mutuellement à toutes les compagnies et autres associations commerciales, industrielles ou financières, constituées ou autorisées suivant les lois particulières de l'un des deux pays, la faculté de faire leurs opérations et d'ester en justice devant les tribunaux, soit pour y intenter une action, soit pour y défendre, dans toute l'étendue du territoire de l'autre Etat, sans autre condition que de se conformer aux lois de cet Etat. Ces compagnies et associations établies dans le territoire de l'une des Hautes Parties con-

tractantes, pourront exercer dans le territoire de l'autre Partie les droits qui seront reconnus aux sociétés analogues de tous les autres pays.

Il est entendu que les dispositions qui précèdent s'appliquent aussi bien aux compagnies et associations constituées ou autorisées antérieurement à la signature du présent Traité qu'à celles qui le seraient ultérieurement.

Article 17.

Les voyageurs de commerce norvégiens voyageant en Belgique pour le compte d'une maison norvégienne et les voyageurs de commerce belges voyageant en Norvège pour le compte d'une maison belge obtiendront la restitution des droits d'entrée qu'ils auront payés pour les objets passibles de droits, qui auront été importés à titre d'échantillons, en se conformant aux dispositions édictées en vue d'assurer la réexportation ou la réintégration en entrepôt des dits échantillons.

Le traitement de la nation la plus favorisée sera d'ailleurs appliqué aux voyageurs de commerce des pays respectifs, sous la réserve toutefois que l'exemption du droit de patente sera subordonnée à la condition du réciprocité.

Article 18.

En tout ce qui concerne la navigation et le commerce, les Hautes Parties contractantes ne pourront accorder aucun privilège, faveur ou immunité à un autre Etat, qui ne soit aussi, et à l'instant, étendu à leurs sujets respectifs.

Article 19.

Les stipulations du présent Traité ne sont pas applicables aux concessions spéciales accordées ou qui seront accordées par la Norvège à la Suède, ni aux concessions que les Hautes Parties contractantes ont accordées ou accorderont à l'avenir à des Etats limitrophes, en vue de faciliter les relations de frontière.

D'autre part, il est entendu que la clause du traitement de la nation la plus favorisée, stipulée par le présent Traité, ne fait pas obstacle aux avantages qui résulteraient d'une union douanière conclue ou à conclure par l'une ou l'autre des Hautes Parties contractantes et qu'elle n'exclut pas non plus la perception de droits supplémentaires en compensation de primes d'exportation ou de production.

Article 20.

Dans le cas où un différend sur l'interprétation ou l'application du présent Traité s'élèverait entre les deux Parties contractantes et ne pourrait être réglé à l'amiable par voie de correspondance diplomatique, celles-ci conviennent de le soumettre au jugement d'un tribunal arbitral, dont elles s'engagent à respecter et à exécuter loyalement la décision.

Le tribunal arbitral sera composé de trois membres. Chacune des deux Parties en désignera un, choisi en dehors de ses nationaux et des habitants du pays. Ces deux arbitres nommeront le troisième. S'ils ne peuvent s'entendre sur ce choix le troisième arbitre sera nommé par

un gouvernement désigné par les deux arbitres, ou à défaut d'entente, par le sort.

Article 21.

Le présent Traité, après avoir été approuvé par les Représentations nationales, sera ratifié et les ratifications en seront échangées à Bruxelles aussitôt que faire se pourra. Il entrera en vigueur dix jours après l'échange des ratifications. Il restera applicable pendant dix années à partir du jour de son entrée en vigueur.

Dans le cas où aucune des deux Hautes Parties contractantes n'aurait notifié, douze mois avant la fin de ladite période, son intention d'en faire cesser les effets, le présent Traité demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Hautes Parties contractantes l'aura dénoncé.

En foi de quoi les Plénipotentiaires l'ont signé et y ont apposé leur cachet.

Fait à Bruxelles, en double original, le vingt sept juin mil neuf cent dix.

(L. S.) *F. Hagerup.*
(L. S.) *H. Davignon.*

83.

BULGARIE, AUTRICHE-HONGRIE.

Echange de notes en vue de régler provisoirement les relations commerciales entre les deux pays; des $\frac{\text{24 décembre 1906}}{\text{6 janvier 1907}}$ et 18 février 1907.

British and Foreign State Papers C (1911), p. 813.

1.

Sophia, le $\frac{\text{24 décembre, 1906.}}{\text{6 janvier, 1907.}}$

Monsieur le Ministre.

J'ai l'honneur de porter à la connaissance de Votre Excellence que, conformément à une décision du Sobranié en date du 19 décembre dernier (v. st.), le Gouvernement Princier continuera à appliquer aux marchandises de provenance Austro-Hongroise, importées en Bulgarie jusqu'à la conclusion d'un Traité de Commerce définitif entre les deux Etats, le traitement de la nation la plus favorisée en échange d'une parfaite réciprocité de la part du Gouvernement Impérial et Royal.

Veuillez agréer, etc.,

D. Petkoff.

2.

Sophia, le 18 février, 1907.

Monsieur le Président du Conseil,

En me référant à la note en date du 24 décembre (6 janvier) dernier No. 1401 par laquelle Votre Excellence a bien voulu me communiquer que le Gouvernement Princier continuera, conformément à la décision du Sobranié du 19 décembre, 1906, à appliquer aux marchandises de provenance Austro-Hongroise importées en Bulgarie, jusqu'à la conclusion d'un Traité de Commerce définitif entre les deux Etats, le traitement de la nation la plus favorisée, j'ai l'honneur de porter à la connaissance de Votre Excellence que mon Gouvernement a pris acte de cette déclaration du Gouvernement Princier.

En même temps je suis chargé par mon Gouvernement d'informer Votre Excellence que le traitement accordé aux marchandises de provenance Bulgare par les Gouvernements Autrichien et Hongrois, continuera, conformément à ma déclaration du 18 janvier, 1906, Nr. 8, à être appliqué aux marchandises Bulgares importées dans la Monarchie jusqu'à la fin de l'année courante, faute de conclusion d'un Traité de Commerce définitif jusqu'à cette époque.

Les Gouvernements Autrichien et Hongrois n'étant pour le moment autorisés par les parlements respectifs à la conclusion d'arrangements commerciaux que jusqu'à la fin de l'année, l'assurance de l'application du traitement de la nation la plus favorisée aux provenances Bulgares ne peut s'étendre dès à présent au delà de ce terme.

Veuillez agréer, etc.

Thurn.

84.

DANEMARK, BULGARIE.

Arrangement commercial; réalisé par un Echange de notes du $\frac{10 \text{ décembre}}{27 \text{ novembre}}$ 1909.

Copie officielle.

1.

Légation de Danemark. Vienne le 10 décembre 1909.

Le soussigné, envoyé extraordinaire et Ministre plénipotentiaire de Sa Majesté le Roi de Danemark à Vienne, dûment autorisé à cet effet par son Gouvernement, a l'honneur de déclarer à Monsieur Iwan Guéchow,

envoyé extraordinaire et Ministre plénipotentiaire de Sa Majesté le Roi des Bulgares en cette ville, que le traitement de la nation la plus favorisée sera appliquée, dans le Royaume de Danemark, aux marchandises et à la navigation bulgares à condition que le même traitement soit appliqué, dans le Royaume de Bulgarie, aux marchandises et à la navigation danoises.

Le présent arrangement entrera en vigueur à partir du 1/14 janvier 1910 et cessera ses effets le 1/14 janvier 1911*).

Le soussigné profite de cette occasion pour renouveler à Son Excellence Monsieur Guéchow les assurances de sa plus haute considération.

(sign.) *H. A. Bernhoft.*

2.

Légation Royale de Bulgarie.

Le soussigné Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté le Roi des Bulgares à Vienne, dûment autorisé à cet effet par son Gouvernement, a l'honneur de déclarer à Monsieur H. A. Bernhoft, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté le Roi de Danemark en cette ville, que le traitement de la nation la plus favorisée sera appliquée dans le Royaume de Bulgarie aux marchandises et à la navigation danoises, à condition que le même traitement soit appliqué dans le Royaume de Danemark aux marchandises et à la navigation bulgares.

Le présent arrangement entrera en vigueur à partir du 1/14 janvier 1910 et cessera ses effets le 1/14 janvier 1911.

Le soussigné profite de cette occasion pour renouveler à Son Excellence Monsieur Bernhoft les assurances de sa plus haute considération.

Vienne, le 27 novembre / 10 décembre 1909.

(sign.) *Iwan Guéchow.*

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*) D'après un Echange de notes du 6 décembre 1911 l'Arrangement ne cessera ses effets que le 1er janvier 1913. V. Nachrichten für Handel, Industrie und Landwirtschaft 1912, No. 7.

85.

ITALIE, BRÉSIL.

Echange de notes en vue de proroger l'Accord commercial du 5 juillet 1900; du 15 mai et du 4 juin 1910.

Copie officielle.

Il Regio Incaricato d'Affari in Petropolis al Ministro brasiliano delle relazioni estere.

Petropolis, 15 maggio 1910.

Essendo ormai troppo breve il lasso di tempo che manca alla scadenza del *modus vivendi* commerciale italo-brasiliano perchè si possa utilmente negoziare e stipulare un definitivo trattato di commercio tra i nostri due paesi, il governo di S. M. il Re, mio Augusto Sovrano, mi ha autorizzato ad informare il governo federale che, per sua parte, è disposto a prorogare sino a tutto il 31 dicembre 1912 l'accordo commerciale provvisorio stabilito mediante lo scambio di note del 5 luglio 1900 e protratto sino al 31 dicembre 1910 con le note del 21 e 23 settembre 1908 tra questa regia legazione e codesto ministero delle relazioni estere, accordo per il quale fu stipulato che, in cambio della riduzione dei diritti di entrata del caffè nel regno da 150 a 130 lire per 100 chilogrammi, i prodotti italiani conserverebbero il beneficio delle tasse minime della tariffa brasiliana.

All'accordo in parola verrebbe tosto sostituito il trattato definitivo non appena esso venisse concluso ed approvato.

Sarò grato all'Eccellenza Vostra se vorrà farmi conoscere a tal riguardo le disposizioni del governo federale, e nel caso in cui esse fossero, come credo, conformi a quelle dalle quali è animato il mio governo, propongo che si consideri fin da oggi prorogato per il termine sopra menzionato l'accordo provvisorio del 5 luglio 1900.

Colgo, ecc. *R. Borghetti.*

Il Ministro brasiliano delle relazioni estere al Regio Incaricato d'Affari in Petropolis.

Rio Janeiro, 4 junho 1910.

Em resposta á sua nota de 15 de maio ultimo, tenho a honra de lhe declarar, devidamente autorisado pelo Presidente da Republica, que o Governo Federal concorda em que tenha vigor até 31 de dezembro de 1912 o Accordo Commercial provisorio resultante das notas trocadas em 5 de julho de 1900 entre este Ministerio e a Legação de Sua Majestade o Rei de Italia.

Conseguintemente fica prorogado o Accordo provisorio entre os dois paizes, e em virtude de tal prorogação os productos italianos continuarão a ter até 31 de dezembro de 1912 o beneficio da tarifa minima brasileira, uma vez que o direito de entrada do café brasileiro na Italia não exceda de 130 Liras por 100 kilogrammas.

Aproveito, etc. *Rio Branco.*

86.

ITALIE, CANADA.

Arrangement commercial provisoire; signé à Ottawa, le 6 juin 1910.

Gazzetta ufficiale 1910. No. 213.

Accordo commerciale provvisorio tra l'Italia e il Canadà 6 giugno 1910.

Agreement entered into this sixth day of June, 1910, between cavalier Lionello Scelsi, Royal Consul of Italy for Canada, representing herein the Government of the Kingdom of Italy,

Party of the one part,

and the Honourable William Stevens Fielding, Minister of Finance of Canada, representing herein His Excellency the Governor General of Canada acting in conjunction with the King's Privy Council for Canada,

Party of the other part:

It is hereby respectively agreed, on behalf of the Government of the Kingdom of Italy and of His Excellency the Governor General of Canada acting as aforesaid, that:

1. The Government of the Kingdom of Italy shall concede to goods the produce or manufacture of Canada enumerated in Schedule A*) hereto attached, upon their importation into Italy, on and after the tenth day of June, 1910, the Conventional Import duties;

2. The Governor in Council of Canada acting as aforesaid shall, under the authority of Section 4, subsection (c), of the Act of the Parliament of Canada, „The Customs Tariff, 1907", on and after the tenth day of June, 1910, extend the benefit of the Intermediate Tariff to goods the

produce or manufacture of Italy enumerated in Schedule B*) hereto attached, when imported direct from Italy or from a British country, that is to say when conveyed without transhipment from a port of Italy or from a port of a British country into a sea or river port of Canada;

3. This agreement is a provisional one, and the question of a general convention for the regulation of commercial relations between Italy and Canada shall be deferred for consideration at a time which may be found mutually convenient;

4. If, after a reasonable time, a commercial convention such as is contemplated by the next preceding clause has not been entered into, then either of the principals herein represented may, if it is deemed desirable, terminate or cancel the respective concessions granted in pursuance hereof on giving to the other two months' notice of intention so to terminate or cancel.

Done in duplicate at the City of Ottawa.

In testimony whereof the said parties have hereunto subscribed their names on the day first mentioned.

Scelsi
Royal Consul of Italy for Canada.

W. S. Fielding
Minister of Finance of Canada.

87.

PORTUGAL, ETATS-UNIS D'AMÉRIQUE.

Arrangement de commerce; réalisé par un Echange de notes du 28 juin 1910.

Diario do Governo 1910. No. 181; — Treaty Series (Washington) 514 1/2.

O abaixo assinado, Enviado Extraordinario e Ministro Plenipotenciario de Sua Majestade o Rei de Portugal e dos Algarves, devidamente autorizado para esse effeito pelo seu Governo, tem a honra de declarar a Sua Excellencia o Secretario de Estado, interino, dos Estados Unidos da America que, em consideração de ter o Presidente dos Estados Unidos da America expedido as proclamações de 29 de janeiro de 1910 e de 21 de fevereiro de 1910, concedendo aos productos do reino de Portugal, das

*) En vue de la publication officielle des tarifs douaniers par le Bulletin international des douanes nous ne reproduisons pas les Annexes A et B.

ilhas dos Açores e da Madeira e das colonias portuguesas, quando importados nos Estados Unidos da America, o beneficio de toda a pauta minima americana, depois de se ter averiguado que nenhum tratamento differencial desfavoravel indevidamente se estava applicando no reino de Portugal, nas ilhas dos Açores e da Madeira ou nas colonias portuguesas aos Estados Unidos da America ou aos seus productos, e tendo ficado, por esta forma, reconhecido o principio de concessões especiaes por Portugal á Espanha e ao Brasil: o Governo Português resólveu que os cidadãos, mercadorias e navios dos Estados Unidos da America serão sujeitos em Portugal e em suas colonias ao mesmo tratamento que os cidadãos, mercadorias e navios das nações mais favorecidas com a condição de que os subditos, mercadorias e navios de Portugal e de suas colonias sejam igualmente tratados nos Estados Unidos da America como os das nações mais favorecidas.

O abaixo assinado aproveita o ensejo para reiterar a S. Ex.ª o Secretario de Estado, interino, dos Estados Unidos da America os protestos de sua mais alta consideração.

Washington, 28 de junho de 1910.

Visconde d'Alte.

A S. Ex.ª Mr. Huntington Wilson, Secretario de Estado, interino, dos Estados Unidos da America, etc., etc., etc.

(Translation.)

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal and of the Algarves, duly authorized to that effect by his Government, has the honour to notify His Excellency the Acting Secretary of State of the United States of America, that, in view of the issuance by the President of the United States of America of the proclamations of January 29th, 1910 and of February 21st, 1910, extending to imports into the United States of America from the Kingdom of Portugal and the Azores and Madeira islands and from the Portuguese possessions, the benefit of the complete minimum tariff of the United States of America, it having been ascertained that no undue discrimination was being exercised in the Kingdom of Portugal, the Azores and Madeira islands or the Portuguese possessions, against the United States of America or the products thereof, and the principle of special concessions by Portugal to Spain and Brazil having thus been recognized, the Portuguese Government has decided to grant the citizens, merchandise and ships of the United States of America the same treatment in Portugal and her possessions as that accorded to the citizens, merchandise and ships of the most favoured nation on the condition that the subjects, merchandise and ships of Portugal and of her possessions will likewise be treated in the United States of America in the same manner as those of the most favoured nations.

The undersigned avails himself of this opportunity in order to convey to the Honourable the Acting Secretary of State of the United States the renewed assurances of his highest consideration.

Viscount d'Alte.

Washington, June 28, 1910.

The Honorable Huntington Wilson,
Acting Secretary of State, etc., etc., etc.

Department of State.—Washington.—The undersigned, Acting Secretary of State of the United States of America, has the honor to acknowledge the receipt of the note of to-day's date in which His Excellency the Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal and of the Algarves, has been good enough to inform him that: in view of the issuance by the President of the United States of America of the proclamations of January 29th, 1910 and of February 21st, 1910, extending to imports into the United States of America from the Kingdom of Portugal, the Azores and Madeira islands and from the Portuguese possessions, the benefit of the complete minimum tariff of the United States of America, it having been ascertained that no undue descrimination was being exercised in the Kingdom of Portugal, the Azores and Madeira islands or the portuguese possessions, against the United States of America or the products thereof, and the principle of special concessions by Portugal to Spain and Brasil having thus been recognized, the Portuguese Government has decided to grant the citizens, merchandise and ships of the United States of America the same treatment in Portugal and her possessions as that accorded to the citizens, merchandise, and ships of the most favoured nations on the condition that the subjects, merchandise, and ships of Portugal and of her possessions will likewise be treated in the United States of America in the same manner as those of the most favoured nations.

Taking note of this declaration the undersigned hastens to declare, in the name of the Government of the United States of America, that the subjects, merchandise, and ships of Portugal and of her possessions will be treated in the United States of America in the same manner as those of the most favoured nations.

The undersigned begs His Excellency the Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal and of the Algarves to accept the renewed assurances of his highest consideration.

Washington, June 28, 1910.

Huntington Wilson,
Acting Secretary of State.

His Excellency the Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal and of the Algarves, etc., etc., etc.

Department of State.—Washington.—The undersigned, Acting Secretary of State of the United States of America, wishes to place it on record that, his attention having been called, on the occasion of the exchange of notes respecting the reciprocal concession of the most favoured nation treatment to the citizens, merchandise and ships of the two countries, by His Excellency the Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal and of the Algarves, to the final protocol annexed to the treaty of commerce recently concluded between Portugal and Germany whereby the names of „Porto" and „Madeira" are recognized as being strictly designations of origin and whereby it is agreed to prevent the sale in the German Empire under these names of wines not originally from the Portuguese districts of Douro and of the island of Madeira, he hastens, in relation to this subject, to declare that the Government of the United States of America will fully exercise the power vested in it by law in order to protect in the United States of America the names „Porto" and „Madeira"; and that, with this end in view, it will apply strictly laws and rulings forbidding the labelling or branding of wine so as to deceive or mislead the purchaser concerning the nature or the origin of the product.

It is also understood that, should the Congress of the United States act on the recommendation of the President in regard to ship subsidies, the Government of the United States of America will favour the establishment of a subsidized line of steam-ships plying directly between the United States and Portugal.

The Acting Secretary of State of the United States of America begs His Excellency the Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal and of the Algarves to accept the renewed assurances of his highest consideration.

Washington, June 28, 1910.

Huntington Wilson,
Acting Secretary of State.

His Excellency the Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal and of the Algarves, etc., etc., etc.

O abaixo assinado, Enviado Extraordinario e Ministro Plenipotenciario de Sua Majestade o Rei de Portugal e dos Algarves, tem a honra de accusar a recepção da nota d'esta data em que S. Ex.ª o Secretario de Estado, interino, dos Estados Unidos da America se serve informá-lo de que: tendo sido chamada a sua attenção, por occasião de effectuar-se a troca de notas relativas á reciproca concessão do tratamento da nação mais favorecida aos cidadãos, mercadorias e navios dos dois paises, para o protocollo final annexo ao tratado de commercio recentemente concluido entre Portugal e a Allemanha em virtude do qual as designações „Porto" e „Madeira" são reconhecidas como sendo estrictamente designações de

origem, ficando prohibida a venda no Imperio Germanico, sob estas designações, de quaesquer vinhos que não forem produzidos nos districtos portugueses do Douro e da Ilha da Madeira, apressa-se, com relação a este assunto, a declarar que o Governo dos Estados Unidos da America usará plenamente dos poderes que a lei lhe confere a fim de proteger nos Estados Unidos da America as designações „Porto“ e „Madeira“, e que, nesse intuito, applicará rigorosamente leis e regulamentos prohibindo o emprego nos vinhos de etiquetas e marcas que possam illudir ou induzir em erro o comprador sobre a natureza ou origem do producto; e que fica tambem entendido que o Governo dos Estados Unidos da America favorecerá o estabelecimento de uma linha de vapores subsidiada fazendo carreiras directas entre os Estados Unidos e Portugal, caso o Congresso dos Estados Unidos dê seguimento á recommendação do Presidente no sentido de serem concedidos subsidios á navegação.

O abaixo assinado, tendo tomado, em nome do seu Governo, nota d'estas declarações de S. Ex.ª o Secretario de Estado, interino, dos Estados Unidos da America, aproveita o ensejo para reiterar a S. Ex.ª os protestos de sua mais alta consideração.

Washington, 28 de junho de 1910.

Visconde d'Alte.

A S. Ex.ª Mr. Huntington Wilson, Secretario de Estado, interino, dos Estados Unidos da America, etc., etc., etc.

(Translation.)

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal and of the Algarves, has the honour to acknowledge the receipt of the note of this date by which His Excellency the Acting Secretary of State of the United States of America is good enough to inform him that:

his attention having been called, on the occasion of the exchange of notes respecting the reciprocal concession of the most favoured nation treatment to the citizens, merchandise and ships of the two countries, to the final protocol annexed to the treaty of commerce recently concluded between Portugal and Germany whereby the names of „Porto“ and „Madeira“ are recognized as being strictly designations of origin, and whereby it is agreed to prevent the sale in the German Empire under these names of wines not originally from the Portuguese districts of Douro and the island of Madeira, he hastens, in relation to this subject, to declare that the Government of the United States of America will fully exercise the powers vested in it by law in order to protect in the United States of America the names „Porto“ and „Madeira“, and that, with this end in view, it will apply strictly laws and rulings forbidding the labelling or branding of wine so

as to deceive or mislead the purchaser concerning the nature or origin of the product; and that it is also understood that, should the Congress of the United States act on the recommendation of the President in regard to ship subsidies, the Government of the United States of America will favour the establishment of a subsidized line of steamships plying directly between the United States and Portugal.

The undersigned having taken due note, in the name of his Government, of these declarations of the Honourable the Acting Secretary of State of the United States of America, avails himself of this opportunity in order to convey to His Excellency the renewed assurances of his highest consideration.

Viscount d'Alte.

Washington, June 28, 1910.

To His Excellency the Honourable the Acting Secretary of State of the United States of America, etc. etc. etc.

88.

MONTÉNÉGRO, SUISSE.

Arrangement commercial; signé à Rome, le 31 décembre 1910.*)

Glas Tchernogorza 1911. No. 6; — Eidgenössische Gesetzsammlung 1911. No. 17.

Sa Majesté le Roi du Monténégro et le Conseil Fédéral Suisse désirant régler les relations commerciales entre les deux pays, les soussignés, dûment autorisés à cet effet, sont convenus de ce qui suit:

Article 1.

Les citoyens et les produits de chacun des deux Etats jouissent réciproquement dans l'autre du traitement de la nation la plus favorisée en matière de commerce et de douane.

Article 2.

Le présent arrangement sera ratifié et les ratifications en seront échangées, le plus tôt que faire se pourra. — Il entrera en vigueur dès la date de l'échange des ratifications et demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Parties contractantes aura annoncé l'intention d'en faire cesser les effets.

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*) Les ratifications ont été échangées à Rome, le 1er juillet 1911.

En foi de quoi les soussignés ont signé le présent arrangement et y ont apposé leurs cachets.

Fait en double exemplaire à Rome le 31 Décembre 1910.

(L. S.) *Eugène Popovitch* m. p.
Consul Général de Monténégro.

(L. S.) *S. B. Pioda* m. p.
Envoyé Extraordinaire et Ministre Plénipotentiaire de la Confédération Suisse près Sa Majesté le Roi d'Italie.

(Übersetzung aus dem französischen Originaltext.)

Da der schweizerische Bundesrat und Seine Majestät der König von Montenegro die Handelsbeziehungen zwischen beiden Ländern zu regeln wünschen, haben die Unterzeichneten, die zu diesem Zwecke gehörig bevollmächtigt sind, folgendes vereinbart:

Artikel 1.

Die Bürger und die Erzeugnisse eines jeden der beiden Staaten geniessen in dem andern Staate in bezug auf Handel und Zollwesen die Behandlung der meistbegünstigten Nation.

Artikel 2.

Das gegenwärtige Abkommen soll ratifiziert und die Ratifikationsurkunden sollen sobald als möglich ausgetauscht werden. Es soll nach dem Austausch der Ratifikationsurkunden in Kraft treten und in Geltung bleiben bis zum Ablauf eines Jahres von dem Tage ab, an dem der eine oder der andere der vertragschliessenden Teile seine Absicht, die Wirkungen des Abkommens aufhören zu lassen, kundgegeben haben wird.

Zu Urkunde dessen haben die Unterzeichneten das gegenwärtige Abkommen unterzeichnet und demselben ihre Siegel beigedrückt.

Geschehen in Rom, in doppelter Ausfertigung, am 31. Dezember 1910.

(L. S.) *J. B. Pioda,*
ausserordentlicher Gesandter und bevollmächtigter Minister der schweiz. Eidgenossenschaft bei Seiner Majestät dem König von Italien.

(L. S.) *Eugen Popovitch,*
Generalkonsul von Montenegro und Vertreter S. M. des Königs Nikolaus I. in Rom.

89.

BULGARIE, TURQUIE.

Convention commerciale provisoire; signée à Constantinople, le 6/19 février 1911.*)**)

Publication officielle.

Convention pour le Commerce et la Navigation.

Le Gouvernement Royal de Bulgarie et le Gouvernement Impérial Ottoman, se trouvant en pourparlers pour la conclusion d'un Traité de Commerce et de Navigation, ont d'un commun accord, adopté le régime provisoire suivant pour le commerce et la navigation entre les deux Pays.

Article I.

Il y aura pleine et entière liberté de commerce et de navigation entre le Royaume de Bulgarie et l'Empire Ottoman. Les sujets de l'une des Parties contractantes pourront, conformément aux lois et règlements locaux, voyager et s'établir librement sur le territoire de l'autre. Les sujets de l'une des Hautes Parties qui sont établis ou résident temporairement sur le territoire de l'autre jouiront dans l'exercice de leur commerce, profession, métier ou industrie, des mêmes droits que les nationaux et ne seront pas soumis à des charges, impôts, taxes sous quelque dénomination que ce soit autres ou plus élevés que ceux qui frappent les nationaux.

Les dispositions précédentes ne seront pas applicables aux pharmaciens, aux courtiers de commerce, aux cabaretiers de village, aux agents de change, aux colporteurs et aux autres personnes qui exercent un commerce ambulant.

Article II.

Les produits d'origine ou de manufacture bulgare qui seront importés en Turquie et les produits d'origine ou de manufacture ottomane qui seront importés en Bulgarie seront respectivement soumis-quant aux droits d'importation, d'exportation, de transit, quant à la réexportation, le transit, l'entrepôt et aux formalités douanières — au même traitement que les produits de la nation la plus favorisée et ils ne seront soumis à aucun droit additionnel de douane, d'accise ou d'octroi, local ou de tout autre genre, ou à des taxes accessoires nouvelles autres que ceux qui existent actuellement ou dont seraient frappés à l'avenir les produits nationaux et ceux de la nation la plus favorisée.

Est excepté de la disposition ci-dessus le tabac produit dans l'Empire Ottoman, qui, lors de son exportation en Bulgarie, restera assujetti au droit d'exportation dit „Reftieh".

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*) Les ratifications ont été échangées à Constantinople, le 21 mars 1911.

**) Prorogée, le 2 novembre 1911, pour la durée d'une année.

En outre les marchandises ottomanes énumérées ci-après paieront à leur entrée en Bulgarie les droits de douane ci-dessous:

Tarif.

№ d'ordre	№ du tarif général Bulgare	Désignation des marchandises	Droit de douane à percevoir par 100 kilgrs
			Francs
1	ex 32	Poisson salé:	
		1) lakerda	30.—
		2) Palamidés, maquereaux, hamsie, coloroudia, stavridia et sardelia	8.—
2	43	Pois-chiches grillés „Leblébi"	4.—
3	58	Figues:	
		a) en boîtes et sacs de toile blanche pesant 10 kilgrs et au dessous	8.—
		b) en chapelets et en sacs	4.—
4	59	Dattes de toutes espèces	7.—
5	60	Raisins frais pour vendange et de table	7.50
6	82 a	Olives ordinaires salées	4.—
7	ex 83	Sésame	4.—
8	111	Rahat locoum	4.—
		Remarque. — Pour que le rahat-locoum soit admis au taux réduit de fr. 4 il doit être présenté en petits morceaux prêts pour la vente en détail. Pour l'arrangement du rahat-locoum on ne pourra employer le sucre en poudre qu'en proportion de 5% au maximum du poids cumulé du locoum et du sucre en poudre; tout le sucre au dessus de cette proportion sera imposé comme sucre.	
9	112	Helvas de toutes espèces	3.—
10	ex 117	Pekmez de raisin sans addition de sucre de d'alcool . .	8.—
11	ex 134 a	Savon pour blanchissage ne contenant pas au dessus de deux pour cent de matières minérales telles que talc, silicates de sodium et de potassium (verre soluble), carbonate de chaux, etc.	10.—
12	358 a	Fils de coton dit „Soulan" écrus et non teints, jusqu'au № 14 anglais inclusivement	20.—

Il est bien entendu que les marchandises ottomanes susmentionnées ne paieront, à leur entrée en Bulgarie des taxes autres ni plus élevées que celles indiquées dans la loi du 31 janvier/13 février 1905 sur les accises et dans la loi du 20 janvier/2 février 1900 sur les octrois modifiée par celle du 30 décembre 1903/12 janvier 1904 et du 28 mars/10 avril 1905.

Article III.

Les navires bulgares et leurs cargaisons en Turquie et les navires ottomans et leurs cargaisons en Bulgarie jouiront, quant aux taxes de tonnage, de port, de pilotage, de phare, de quarantaine et à tous les autres droits similaires, perçus dans les ports, bassins, docks, rades et havres des Pays Contractants du même traitement que les navires et cargaisons appartenant à la nation la plus favorisée.

Les mêmes navires et cargaisons jouiront aussi sous tous les autres rapports, du même traitement de la nation la plus favorisée, étant bien

entendu qu'ils ne pourront en aucun cas bénéficier du traitement exceptionnel dont jouissent, en vertu du régime exceptionnel des capitulations, les navires appartenant à la nation la plus favorisée. Les matières de police et de juridiction, ainsi que tout cas du traitement exceptionnel d'après le susdit régime exceptionnel, seront régis par les règles du Droit International Public Européen.

Article IV.

Les annexes XII et XIII de l'Arrangement Commercial et Douanier conclu entre la Bulgarie et la Turquie le 30 décembre 1906, relativement aux faveurs spéciales accordées au trafic des districts limitrophes et au régime des propriétés mixtes, resteront en vigueur pendant la durée de la présante Convention.

Article V.

Il est convenu que les marchandises Bulgares et Ottomanes entrées dans les douanes respectives après le 15/28 janvier 1911 et qui n'auront pas été dédouanées au moment de la mise en vigueur de la présente Convention profiteront du régime indiqué à l'Art. II ci-dessus.

Article VI.

La présente Convention, qui commencera à produire ses effets à partir de l'échange des ratifications, aura force pour un an.

Toutefois, les deux Parties Contractantes se réservent de dénoncer la présente Convention après le 1/14 novembre 1911 dans le cas où un Traité de Commerce et de Navigation n'aura pas été conclu et présenté jusqu'à cette dernière date à la ratification des Parlements respectifs.

Dans ce cas, la présente Convention prendra fin 15 jours après la notification officielle qui serait faite par l'une des deux Parties.

Fait à Constantinople en double le 6/19 février 1911.

Le Délégué Bulgare
autorisé
Le Ministre Plénipotentiaire
(Sig.) *M. K. Sarafoff.*

Le Délégué Ottoman
autorisé
Le Ministre des Finances
(Sig.) *Mehmed Djavid.*

90.

PORTUGAL, FRANCE.

Arrangement commercial provisoire; réalisé par un Echange de notes diplomatiques du 17 février 1911.

Diario do Governo 1911. No. 43.

Senhor Ministro.

Achando-se o Governo português autorizado pelo artigo 1.º da lei de 25 de setembro de 1908 a conceder o tratamento da nação mais favorecida

ás mercadorias originarias dos paises que garantem igual tratamento ás mercadorias portuguesas, e estando o Governo da Republica francesa munido de uma identica autorização pelo artigo 1.º da lei de 11 de janeiro de 1892, venho declarar a V. Ex.ª, devidamente autorizado pelo Governo Provisorio da Republica portuguesa, que, emquanto se não assina a Convenção de commercio e de navegação que este Governo deseja ver concluida no mais curto prazo possivel entre os nossos dois paises, as mercadorias originarias de França serão admittidas em Portugal, relativamente aos direitos de importação e de consumo, com o mesmo tratamento que as mercadorias originarias dos paises mais favorecidos, isto é, serão tratadas com o beneficio da pauta minima portuguesa, com a condição de que as mercadorias originarias de Portugal sejam igualmente admittidas em França como as das nações mais favorecidas.

As estipulações do presente acordo não poderão ser invocadas pelo que se refere aos favores especiaes concedidos ou que vierem a ser concedidos por Portugal á Espanha e ao Brasil, nem no que diz respeito aos favores que as Altas Partes contratantes tenham concedido ou venham a conceder no futuro, a titulo exclusivo, aos Estados limitrophes, no intuito de facilitar as relações de fronteira.

O Governo português concorda em que, a partir da data em que o presente acordo começar a vigorar, os productos franceses enumerados na lista annexa não paguem, na sua importação em Portugal, direitos mais elevados do que os mencionados na referida lista.

As disposições d'este acordo serão applicaveis de uma parte á Argelia, e de outra parte ás ilhas da Madeira, de Porto Santo e dos Açores. Fica entendido que os productos originarios das ilhas de S. Thomé e Principe e de Cabo Verde, importados em França com trasbordo no porto do Funchal, não perderão o beneficio do transporte directo.

O presente acordo entrará immediatamente em vigor e terá força obrigatoria até ser posta em execução a Convenção definitiva que será assinada entre as duas Altas Partes contratantes no mais curto prazo possivel, salvo a cada uma das Partes o direito de denunciar o dito acordo mediante previo aviso de tres meses.

Aproveito a opportunidade, Senhor Ministro, para reiterar a. V. Ex.ª o testemunho da minha alta consideração.

Lisboa, 17 de fevereiro de 1911.

Bernardino Machado.

A Sua Excellencia o Senhor George Saint-René Taillandier, Enviado Extraordinario e Ministro Plenipotenciario da Republica Francesa em Lisboa.

Lista dos artigos que passarão a pagar em Portugal os direitos de importação abaixo mencionados

Artigos		Unidades	Réis
ex. 78	Batatas para sementes (sendo importadas de 1 de novembro a 31 de março)	Kilog.	$003
103 e 114	Ferro e aço batido ou laminado, em bruto . .	"	$001
154	Extractos tintorios em qualquer estado (peso bruto)	"	$002
159	Substancias medicinaes e para perfumarias não especificadas	*Ad val.*	5 %
182	Fitas e galões (incluindo as taras, com excepção de caixas de madeira, papelão ou cartão): mistos	Kilog.	6$500
187	Tecidos não especificados de seda pura . . .	"	7$000
386	Instrumentos, ferramentas e utensilios, não especificados, para artes e officios, para agricultura e jardinagem (comprehendendo os semeadores, os distribuidores de adubos e, em geral, todos os instrumentos e apparelhos com que se realiza ou auxilia o trabalho manual)	"	$020
—	Automoveis completos para duas pessoas . . .	Um	100$000
—	Automoveis completos para quatro pessoas ou mais	"	120$000
—	Automoveis completos de tracção ou transporte de carga	"	80$000
—	Automoveis incompletos (rodados com motores)	"	20$000
420—A	Velocipedes: motocycletas completas, comprehendendo o motor	"	15$000
ex. 438	Coiro em obra de protectores para rodas de automoveis e outros vehiculos	Kilog.	$150
ex. 440	Cautchu e guta-percha e camaras de ar para rodas de automoveis e outros vehiculos . .	"	$050
ex. 504	Gravuras e estampas em mais de uma côr e lithographias	"	$600
ex. 507	Livros e brochuras em lingua estrangeira, brochados ou em folhas, atlas e cartas geographicas com inscrições em lingua estrangeira . . .	"	$005
—	Espartilhos:		
	a) Em tecidos de algodão, linho ou canhamo, ou em tecidos mercerizados . .	Um	1$400
	b) Em telas de malha de linho, canhamo ou algodão, ou em tecidos de linho, canhamo ou algodão com cautchu ou guta-percha	"	2$000
	c) Em telas de malha ou em tecidos, umas e outros bordados com fios de seda ou de lã	"	3$500
	d) Em telas de malha ou em tecidos, umas e outros em seda pura	"	4$500
567	Medicamentos: pilulas, drageas, capsulas, perolas e extractos medicinaes (incluindo as taras) .	Kilog.	1$500
568	Medicamentos: globulos, granulos, lentilhas e productos congeneres (incluindo as taras) . .	"	4$500
569	Medicamentos: pastilhas de qualquer especie (incluindo as taras)	"	1$000
570	Medicamentos simples ou compostos, não especificados (incluindo as taras)	"	$500

Monsieur Le Ministre,

Le Gouvernement de la République française se trouvant autorisé par l'article 1er de la loi du 11 janvier 1892 à concéder le traitement de la nation la plus favorisée aux marchandises originaires des pays qui garantissent un égal traitement aux marchandises françaises, et le Gouvernement portugais étant muni d'une semblable autorisation par l'article 1er de la loi du 25 Septembre 1908, je viens déclarer, dûment autorisé par le Gouvernement de la République française, que, en attendant que soit signée la Convention de commerce et de navigation que mon Gouvernement désire voir conclure dans le plus bref délai possible entre nos deux pays, les marchandises originaires du Portugal seront admises en France, relativement aux droits d'importation et de consommation, au même traitement que les marchandises originaires des pays les plus favorisés, c'est-à-dire au bénéfice du tarif minimum français, sous la condition que les marchandises originaires de France seront également admises en Portugal comme celles des nations les plus favorisées.

Les stipulations du présent accord ne pourront être invoquées pour ce qui se rapporte aux faveurs spéciales concédées ou qui viendraient à être concédées par le Portugal à l'Espagne et au Brésil, ni en ce qui a trait aux faveurs que les Hautes Parties contractantes ont concédées ou viendraient à concéder dans l'avenir, à titre exclusif, à des Etats limitrophes, dans le dessein de faciliter les relations de frontière.

Le Gouvernement portugais consent à ce que, à partir de la date où le présent accord commencera d'être en vigueur, les produits français énumérés dans la liste ci-annexée ne paient pas, à leur importation en Portugal, de droits plus élevés que ceux qui sont mentionnés sur cette même liste.

Les dispositions de cet accord seront applicables d'une part à l'Algérie, et d'autre part aux îles de Madère, de Porto Santo et des Açores. Il est entendu que les produits originaires des îles de S. Thomé, du Prince et du Cap Vert, importés en France après transbordement dans le port de Funchal, ne perdront pas le bénéfice du transport en droiture.

Le présent accord entrera immédiatement en vigueur et aura force obligatoire jusqu'à la mise en vigueur de la Convention définitive qui sera signée entre les deux Hautes Parties contractantes dans le plus bref délai possible, sauf pour chacune des Parties le droit de dénoncer ledit accord moyennant un avis préalable de trois mois.

Je saisis cette occasion, Monsieur le Ministre, pour renouveler à Votre Excellence les assurances de ma haute considération.

Lisbonne, le 17 Février 1911.

G. Saint-René Taillandier.

Son Excellence Monsieur Bernardino Machado, Ministre des Affaires Etrangères.

Liste des articles qui payeront en Portugal les[1] droits d'importation ci-dessous mentionnés

Articles		Bases	Réis
ex. 78	Pommes de terre pour semences (importées du 1er novembre au 31 mars)	Kilog.	$003
103 et 114	Fer et acier forgé ou laminé, brut	"	$001
154	Extraits tinctoriaux de tout genre (poids brut)	"	$002
159	Substances pour la médecine et pour la parfumerie, non spécialement dénommées . . .	*Ad val.*	5 %
182	Rubans et galons (y compris les tares à l'exception des boîtes en bois, en carte ou en carton): mélangés	Kilog.	6$500
187	Tissus de soie pure non spécialement dénommés	"	7$000
386	Instruments, appareils et ustensiles pour les arts et métiers, l'agriculture et le jardinage, non spécialement dénommés, (y compris les machines à semer, les distributeurs des engrais et, en général, tous les instruments et appareils à l'aide desquels on fait ou on seconde le travail manuel)	"	$020
—	Voitures automobiles complètes pour deux personnes	Pièce	100$000
—	Voitures automobiles complètes pour quatre personnes ou plus	"	120$000
—	Voitures automobiles pour la traction et le roulage	"	80$000
—	Voitures automobiles incomplètes (chassis avec le moteur)	"	20$000
420—A	Vélocipèdes: motocyclettes complètes, y compris le moteur	"	15$000
ex. 438	Bandages de cuir pour roues d'automobiles ou d'autres véhicules	Kilog.	$150
ex. 440	Caoutchouc et gutta-percha en bandes protectrices et tuyaux pour automobiles et autres véhicules	"	$050
ex. 504	Gravures et estampes coloriées en plusieurs couleurs et lithographies	"	$600
ex. 507	Livres et brochures en langues étrangères, brochés ou en feuilles, atlas et cartes géographiques avec inscriptions en langue étrangère	"	$005
	Corsets:		
	a) En tissus de coton, lin ou chanvre, ou en tissus mercérisés	Pièce	1$400
	b) En tissus en maille de lin, chanvre, ou coton, ou en tissus simples de lin, chanvre ou coton avec caoutchouc ou gutta-percha	"	2$000
	c) En tissus en maille ou en tissus simples, les uns et les autres brodés avec des fils de soie ou de laine	"	3$500
	d) En tissus en maille ou en tissus simples, les uns et les autres de soie pure . .	"	4$500
567	Médicaments: pilules, dragées, capsules, perles et extraits médecinaux (y compris les tares)	Kilog.	1$500
568	Médicaments: globules, granules, lentilles et produits similaires (y compris les tares) . .	"	4$500
569	Médicaments: pastilles de toute espèce (y compris les tares)	"	1$000
570	Médicaments simples ou composés, non spécialement dénommés (y compris les tares) . . .	"	$500

91.

ITALIE, PORTUGAL.

Echange de notes pour établir un Accord provisoire de commerce, de douanes et de navigation; du 9 mai 1911.

Gazzetta ufficiale 1911, No. 151.

Il ministro d'Italia in Lisbona al ministro portoghese degli affari esteri.

Lisbona, 9 maggio 1911.

Signor ministro,

I negoziati per la conclusione di un trattato di commercio e di navigazione fra i due paesi essendo giunti/ormai a boun punto e sembrando conveniente che le rispettive nazioni comincino già ad usufruire dei beneficî delle clausole principali sulle quali le due Alte Parti contraenti trovansi perfettamente d'accordo, vengo a dichiarare a Vostra Eccellenza, debitamente autorizzatone dal governo di Sua Maestà che, nell'attesa della conclusione del trattato in discorso, nessun altro paese avrà d'ora avanti in Italia un trattamento più di favore che il Portogallo così per l'importazione, esportazione e riesportazione coi rispettivi diritti, come per tutto ciò che si riferisce alle operazioni doganali, al magazzinaggio, al trasbordo di merci, al *drawback* ed in genere all'esercizio del commercio e della navigazione, colla condizione che in queste stesse materie il Portogallo applichi all'Italia il trattamento della nazione la più favorita.

Resta inteso che le stipulazioni del presente accordo non potranno essere invocate nè pei favori speciali già concessi, o che potranno esserlo, dal Portogallo alla Spagna e al Brasile, nè per quelli che le Alte Parti contraenti abbiano accordato o accorderanno, a titolo esclusivo, agli Stati limitrofi per facilitare le relazioni di frontiera.

I vini portoghesi in Italia ed i vini italiani in Portogallo saranno reciprocamente soggetti, per l'importazione, alla tariffa massima, coll'eccezione però, da una parte, dei vini portoghesi di Porto e di Madera che godranno in Italia del dazio ridotto, applicabile ai vini d'ogni altra provenienza, purchè siano originarî, il Porto della regione del Douro, e il Madera dell'isola omonima, e siano accompagnati da certificati rilasciati dalle autorità doganali di Oporto e di Funchal, e coll'eccezione, dall'altra, del Marsala e dei vermouth italiani, che godranno in Portogallo del beneficio della tariffa minima applicabile ai vini di qualsiasi altra provenienza, purchè il Marsala sia originario della Sicilia o delle isole adiacenti, e sia accompagnato da certificato del sindaco della località.

Il Governo italiano proibirà l'importazione, la circolazione, l'esibizione e la vendita in Italia di qualsiasi altro vino che prenda il nome di Oporto o di Madera o quissimile, ma che non sia originario delle regioni portoghesi

del Douro o dell'isola di Madera, e non sia accompagnato da certificato di origine delle competenti autorità portoghesi. Dal canto suo il Governo portoghese proibirà l'importazione, la circolazione, l'esibizione e la vendita in Portogallo di qualsiasi vino col nome di Marsala o quissimile, non originario della Sicilia od isole adiacenti, e mancante del certificato d'origine rilasciato dalle autorità italiane.

In caso di infrazione, si procederà al sequestro della merce, sia per iniziativa dell'amministrazione doganale, sia dietro istanza del pubblico ministero o richiesta della parte interessata, individuo o società, conformemente alle rispettive legislazioni vigenti in Portogallo ed in Italia.

Il trattamento della nazione più favorita previsto dal presente accordo sarà applicabile: da una parte all'Italia e dall'altra al Portogallo ed alle isole adiacenti, cioè Madera, Porto Santo e arcipelago delle Azzorre; rimanendo altresì inteso che i prodotti delle colonie portoghesi importati in Italia, sia direttamente, sia pel tramite del continente portoghese e delle isole adiacenti, e i prodotti delle colonie italiane importati in Portogallo o nelle isole adiacenti, sia direttamente, sia pel tramite del continente italiano, saranno ammessi all'importazione come se fossero originari rispettivamente del Portogallo o dell'Italia.

Sono escluse dal presente accordo:

a) le importazioni del Portogallo e isole adiacenti nelle colonie italiano, e le importazioni dell'Italia nelle colonie portoghesi;

b) le importazioni tra colonie portoghesi e colonie italiane e viceversa.

Il presente accordo entrerà immediatamente in vigore ed avrà forza obbligatoria sino a che sarà posta in esecuzione la convenzione definitiva, la quale sarà firmata dalle due Alte Parti contraenti nel più breve tempo possibile, salvo il diritto di denuncia, con preavviso di tre mesi, per le dette Parti.

Gradisca, ecc.

Paulucci de'Calboli.

Il ministro portoghese degli affari esteri al ministro d'Italia in Lisbona.

Lisbôa, 9 de maio de 1911.

Senhor ministro,

Achando-se muito adeantadas as negociaçôes para a conclusâo de um tratado de commercio e de navegaçâo entre os nossos dois paises e sendo de toda a conveniencia que as respectivas naçôes começem desde já a gozar dos beneficios das principaes clausulas sobre que as duas Altas Partes contratantes se encontram em perfeito acordo, venho declarar a V. Ex.ª, devidamente autorizado pelo Governo Provisorio da Republica Portuguesa, em conformidade com as disposiçôes do artigo 1º da lei de 25 de setembro de 1908, que, emquanto nâo começa a vigorar o projectado tratado, nenhum outro pais gozará de ora avante, em Portugal, de um tratamento mais

favorecido do que a Italia no que se refere á importaçâo, aos direitos de importaçâo, á exportaçâo, aos direitos de exportaçâo, á reexportaçâo, aos direitos de reexportaçâo, ao despacho aduaneiro, á armazenagem, ao trasbordo de mercadorias, ao *drawback* e, em geral, ao exercicio do commercio e da navegaçâo, com a condiçâo de que, nestas mesmas materias, a Italia applique a Portugal o tratamento da naçâo mais favorecida.

Fica entendido que as estipulaçôes do presente acordo nâo poderâo ser invocadas relativamente aos favores especiaes concedidos, ou que vierem a ser concedidos, por Portugal á Espanha e ao Brasil, nem no que diz respeito aos favores que as Altas Partes contratantes tenham concedido, ou venham a conceder no futuro, a titulo exclusivo, aos Estados limitrofes, no intuito de facilitar as relaçôes de fronteira.

Os vinhos italianos em Portugal e os vinhos portugueses na Italia ficarâo reciprocamente sujeitos, na importaçâo, aos direitos mais elevados que vigorarem em cada um dos dois paises, com excepçâo, de uma parte, do Marsala e do vermouth italianos, que gozarâo em Portugal do beneficio dos direitos minimos applicaveis aos vinhos e vermouths de qualquer outra procedencia, comtanto que o vinho Marsala seja originario de Sicilia ou de suas ilhas adjacentes e venha acompanhado de certificado passado pelo syndico da localidade, e, da outra parte, dos vinhos portugueses do Porto e da Madeira que gozarâo na Italia do beneficio dos direitos mais reduzidos applicaveis aos vinhos de qualquer outra procedencia, comtanto que sejam originarios: o do Porto da regiâo do Douro e o da Madeira da ilha da Madeira, e vâo acompanhados de certificados passados pelas autoridades aduaneiras do Porto e do Funchal.

O Governo Português prohibirá a importaçâo, a circulaçâo, a exposiçâo e a venda, em Portugal, de qualquer vinho com a designaçâo de Marsala ou outra parecida, nâo sendo originario da Sicilia ou das suas ilhas adjacentes e acompanhado de certificado de origem passado pelas competentes autoridades italianas, e, reciprocamente, o Governo Italiano prohibirá a importaçâo, a circulaçâo, a exposiçâo e a venda, na Italia, de qualquer vinho com as designaçôes de Porto e de Madeira ou outras parecidas, nâo sendo originario das regiôes portuguesas do Douro ou da ilha da Madeira, e acompanhado de certificados de origem passados pelas competentes autoridades portuguesas. Em caso de infracçâo, proceder-se-ha á apprehensâo da mercadoria, quer por iniciativa da Direcçâo das Alfandegas, quer a instancia do Ministerio Publico ou a pedido de qualquer parte interessada, individuo ou sociedade, na conformidade con a legislaçâo respectivamente vigente em Portugal e na Italia.

O tratamento da naçâo mais favorecida previsto no presente acordo será applicavel: de uma parte á Italia e da outra a Portugal e ás ilhas adjacentes, isto é, Madeira, Porto Santo e o archipelago dos Açores, ficando ao mesmo tempo entendido que os productos das colonias portuguesas importados na Italia, seja directamente seja por intermedio do continente português ou das ilhas adjacentes, e os productos das colonias italianas importados em Portugal ou nas ilhas adjacentes, seja directamente seja

por intermedio do continente italiano, serâo admittidos á importaçâo como se fossem originarios, respectivamente, de Portugal e da Italia.

Sâo excluidas do presente acordo:

a) as importaçôes da Italia nas colonias portuguesas, e as importaçôes de Portugal e ilhas adjacentes nas colonias italianas;

b) as importaçôes entre as colonias portuguesas e as colonias italianas, e vice-versa.

O present acordo entrará immediatamente em vigor e terá força obrigatoria até ser posta em execuçâo a Convençâo definitiva, que será assinada entre as duas Altas Partes contratantes no mais curto prazo possivel, salvo a cada uma das Partes o direito de denunciar este acordo mediante previo aviso de tres meses.

Aproveito a opportunidade para reiterar, ecc.

Bernardino Machado.

92.

PAYS-BAS, JAPON.

Arrangement commercial provisoire; réalisé par un Echange de notes du 28 juin 1911.

Copie officielle.

Note japonaise.

I, the undersigned Envoy Extraordinary and Minister Plenipotentiary of Japan at the Hague, have the honour to acknowledge the receipt of the note of this date of His Excellency Jonkheer R. de Marees van Swinderen, Minister for Foreign Affairs of the Netherlands, declaring that on and from the seventeenth day of July 1911 and until the conclusion of a new Treaty of Commerce and Navigation between Japan and the Netherlands, Her Majesty's Government undertake to guarantee to Japan the most favoured nation treatment in matters of commerce, customs tariffs and navigation in the Netherlands and its colonies, and the undersigned being duly authorized thereto by his Government has the honour to state that the Imperial Government equally engage on its part to accord in the Empire of Japan the most favoured nation treatment to the Netherlands in the same matters and for the same term as above mentioned.

The undersigned avails himself of this opportunity to renew to his Excellency Jonkheer R. de Marees van Swinderen the assurances of his highest consideration.

Aimaro Sato.

The Hague, June 28th 1911.

93.

GRANDE-BRETAGNE, JAPON.

Echange de notes diplomatiques en vue de proroger, pour le Canada, l'Article 5me du Traité de commerce, signé le 16 juillet 1894;*) du 7 juillet 1911.

Treaty Series 1911. No. 17.

(1.)

Sir Edward Grey to the Japanese Ambassador.

Foreign Office, July 7, 1911.

Your Excellency,

I have the honour to inform you that His Majesty's Government agree to the continuance in respect of the Dominion of Canada for a period of two years from the 17th July next—the date of the expiry of the Convention between the United Kingdom and Japan of the 31st January, 1906, respecting commercial relations between Canada and Japan**)—of the most-favoured-nation treatment as regards customs duties and other matters expressed in article 5 of the Anglo-Japanese Commercial Treaty of the 16th July, 1894, on the understanding that the Imperial Japanese Government are equally prepared to agree to such continuation.

I have the honour to enquire whether the Imperial Japanese Government are prepared on their side to give an assurance that the reciprocal concession in the said article will be likewise granted to Canada.

Should you agree to the proposed arrangement, the present note and your reply will be regarded by His Majesty's Government as placing upon record the understanding arrived at between our respective Governments in this matter.

I have, &c.

E. Grey.

(2.)

The Japanese Ambassador to Sir Edward Grey.

Japanese Embassy, London, July 7, 1911.

Sir,

I have the honour to acknowledge the receipt of your note of to-day's date, informing me that His Britannic Majesty's Government agree to the continuance in respect of the Dominion of Canada for a period

*) V. N. R. G. 2. s. XX, p. 809; XXII, p. 594.
**) V. N. R. G. 2. s. XXXV, p. 25.

of two years from the 17th July next—the date of the expiry of the Convention between Japan and the United Kingdom of the 31st January, 1906, respecting commercial relations between Japan and Canada—of the most-favoured-nation treatment as regards customs duties and other matters expressed in article 5 of the Commercial Treaty of the 16th July, 1894, between Japan and Great Britain, on the understanding that the Imperial Japanese Government are equally prepared to agree to such continuation.

I have the honour to state that the Imperial Japanese Government are prepared on their side to give an assurance that the reciprocal concession in the said article will be likewise granted to Canada, and the present exchange of notes between us is accordingly regarded by them as placing upon record the understanding arrived at between our respective Governments.

I have, &c.

Takaaki Kato.

94.

AUTRICHE-HONGRIE, PORTUGAL.

Arrangement commercial provisoire, réalisé par un Echange de notes du 8 juillet 1911.

Oesterreichisches Reichsgesetzblatt 1912. No. LXVIII.

(Urtext.)

Monsieur le Ministre,

D'après les instructions que je viens de recevoir de mon Gouvernement, j'ai l'honneur de déclarer ce qui suit:

En attendant la conclusion d'un Traité de commerce et de navigation définitif avec le Portugal, les produits du sol et de l'industrie du Portugal seront admis dans le territoire douanier conventionnel des deux Etats de la Monarchie austro-hongroise, relativement aux droits d'importation et de consommation, au même traitement que les produits du sol et de l'industrie des nations les plus favorisées, à condition que les produits du

(Übersetzung.)

Herr Minister!

Gemäss den mir von meiner Regierung soeben erteilten Weisungen habe ich die Ehre, zu erklären, wie folgt:

Bis zum Abschlusse eines definitiven Handels- und Schiffahrtsvertrages mit Portugal werden die Boden- und Industrieerzeugnisse Portugals in dem Vertragszollgebiete der beiden Staaten der österreichisch-ungarischen Monarchie hinsichtlich der Einfuhr- und Konsumabgaben derselben Behandlung unterliegen, wie die Boden- und Industrieerzeugnisse der meistbegünstigten Nationen, unter der Bedingung, dass die Boden- und

sol et de l'industrie de l'Autriche et de la Hongrie seront également admis en Portugal comme ceux des nations les plus favorisées.

La stipulation qui précède ne pourra cependant pas être invoquée pour ce qui se rapporte aux faveurs spéciales concédées ou qui viendraient à être concédées par le Portugal à l'Espagne et au Brésil.

Les Gouvernements de l'Autriche et de la Hongrie reconnaissent que les désignations des vins de Porto et de Madère appartiennent exclusivement aux vins récoltés dans les régions portugaises, notamment du Douro et de l'île de Madère et ils s'engagent à poursuivre sur leurs territoires, conformément aux prescriptions de la législation intérieure actuellement en vigueur, tout abus des désignations susdites par rapport aux vins qui ne seraient pas originaires des respectives régions du Portugal et de l'île de Madère, à condition que le Gouvernement portugais reconnaisse que la désignation du vin de Tokaj, Tokaji asszú, szamorodni, hegyaljai, máslás ou en général une désignation de la région de viticulture de Tokaj appartient exclusivement aux vins récoltés dans le district des communes formant la région de viticulture de Tokaj, et que le Gouvernement portugais s'engage à procéder, en cas de contravention, conformément aux lois du pays.

Le traitement de la nation la plus favorisée est, à condition de réciprocité, aussi appliqué en ce qui concerne le commerce, l'industrie et la navigation aux ressortissants portugais résidant ou de passage en Autriche ou en Hongrie et aux ressortissants

Industrieerzeugnisse Österreichs und Ungarns in Portugal gleichfalls wie jene der meistbegünstigten Nationen behandelt werden.

Die vorstehende Vereinbarung kann nicht angerufen werden bezüglich jener Spezialbegünstigungen, welche von Portugal an Spanien und Brasilien bereits zugestanden wurden oder in Zukunft zugestanden werden.

Die Regierungen Österreichs und Ungarns erkennen an, dass die Bezeichnung Porto- und Madeirawein ausschliesslich den aus den bezüglichen portugiesischen Bezirken, insbesondere des Duro und der Insel Madeira, stammenden Weinen zukommt, und verpflichten sich, in ihren Gebieten nach Massgabe der in Geltung stehenden inneren Gesetzgebung jeden Missbrauch der genannten Bezeichnungen bei Weinen, die nicht aus den bezüglichen Gegenden Portugals oder der Insel Madeira stammen, zu verfolgen unter der Bedingung, dass die portugiesische Regierung anerkennt, dass die Weinbezeichnungen Tokajer, Tokajer Ausbruch, Szamorodner, Hegyaljaer, Máslás oder im allgemeinen jede Benennung nach dem Tokajer Weingebiete ausschliesslich jenen Weinen zukommt, die aus den das Tokajer Weingebiet bildenden Gemeinden stammen, und dass die portugiesische Regierung sich verpflichtet, in Fällen von Zuwiderhandlungen nach Massgabe der Gesetze des Landes vorzugehen.

Unter der Bedingung der Gegenseitigkeit findet die Behandlung auf dem Fusse der Meistbegünstigung hinsichtlich des Handels, der Industrie und der Schiffahrt auch Anwendung auf die dauernd oder vorübergehend in Österreich oder Ungarn sich auf-

autrichiens et hongrois résidant ou de passage en Portugal.

haltenden portugiesischen Staatsangehörigen, sowie auf die dauernd oder vorübergehend in Portugal sich aufhaltenden österreichischen und ungarischen Staatsangehörigen.

Le régime ainsi établi s'étendra à tous les pays qui appartiennent ou appartiendront à l'avenir au territoire douanier conventionnel des deux Etats de la Monarchie austro-hongroise et, pour ce qui concerne le Portugal, à la métropole et aux îles adjacentes: Madère, Porto Santo et Azores. Toutefois, les produits des colonies portugaises, réexpédiés par l'intermédiaire des ports du Portugal et des îles adjacentes, seront admis, en Autriche-Hongrie, comme s'ils étaient originaires du Portugal et ne seront passibles d'aucune surtaxe ou traitement désavantageux en rapport aux produits similaires de toute autre provenance. La disposition précédente n'empêchera cependant pas l'accomplissement des obligations imposées par les actes de Bruxelles relatifs au régime des sucres.

Die hiemit getroffenen Vereinbarungen werden für alle Länder gelten, die dem Vertragszollgebiete der beiden Staaten der österreichisch-ungarischen Monarchie angehören oder in Zukunft angehören werden und hinsichtlich Portugals für das Mutterland und die anliegenden Inseln: Madeira, Porto Santo und die Azoren. Auch die Erzeugnisse der portugiesischen Kolonien, die aus den Häfen Portugals und der anliegenden Inseln zur Wiederausfuhr gelangen, werden in Österreich-Ungarn so behandelt werden, als ob sie aus Portugal stammen würden, und keinem Zollzuschlage oder keiner ungünstigeren Behandlung unterworfen sein, als die gleichartigen Erzeugnisse jeder anderen Herkunft. Durch die vorstehende Bestimmung soll indes die Erfüllung der durch die Brüsseler Zuckerakte übernommenen Verpflichtungen nicht behindert werden.

Le régime de la nation la plus favorisée sera réciproquement maintenu jusqu'à la mise en vigueur du Traité de commerce définitif, sauf le droit de le dénoncer moyennant un avis préalable de six mois.

Unbeschadet des Rechtes, diese Vereinbarung durch eine sechs Monate vorher erfolgende Verständigung zu kündigen, wird die Behandlung auf dem Fusse der Meistbegünstigung gegenseitig bis zu dem Zeitpunkte in Geltung bleiben, in welchem der definitive Handelsvertrag in Kraft tritt.

En réservant à une entente ultérieure la fixation de la date de la mise en vigueur de ce régime, j'ai l'honneur de prier Votre Excellence de bien vouloir me faire parvenir une note analogue à la présente et je saisis cette occasion, Monsieur le Ministre,

Indem ich die Bestimmung des Datums des Inkrafttretens dieses Regimes einer weiteren Vereinbarung vorbehalte, habe ich die Ehre, Eure Exzellenz zu bitten, mir eine analoge Note zukommen zu lassen und ergreife diese Gelegenheit, Sie, Herr Minister,

pour vous renouveler les assurances de ma très-haute considération.

Lisbonne, le 8 juillet 1911.

Brandis m. p.

A Son Excellence
Monsieur Bernardino Machado,
Ministre des Affaires Etrangères.

erneut meiner ausgezeichnetsten Hochachtung zu versichern.

Lissabon, den 8. Juli 1911.

Brandis m. p.

An Seine Exzellenz
Herrn Bernardino Machado,
Minister des Äussern.

Monsieur le Comte,

En réponse à la note que vous avez bien voulu m'adresser en date du 8 juillet 1911 j'ai l'honneur de déclarer ce qui suit:

En attendant la conclusion d'un Traité de commerce et de navigation définitif avec l'Autriche-Hongrie, les produits du sol et de l'industrie de l'Autriche et de la Hongrie seront admis en Portugal, relativement aux droits d'importation et de consommation, au même traitement que les produits du sol et de l'industrie des nations les plus favorisées, à condition que les produits du sol et de l'industrie du Portugal seront également admis dans le territoire douanier conventionnel des deux Etats de la Monarchie austro-hongroise comme ceux des nations les plus favorisées.

La stipulation qui précède ne pourra cependant pas être invoquée pour ce qui se rapporte aux faveurs spéciales concédées, ou qui viendraient à être concédées par le Portugal à l'Espagne et au Brésil.

Le Gouvernement portugais reconnait que la désignation du vin de Tokaj, Tokaji asszú, szamorodni, hegyaljai, máslás ou en général une désignation de la région de viticulture de Tokaj appartient exclusivement aux vins récoltés dans les districts des communes formant la région de viticulture

Hochgeborner Graf!

In Beantwortung der Note, welche Sie unterm 8. Juli 1911 an mich zu richten die Güte hatten, habe ich die Ehre, zu erklären, wie folgt:

Bis zum Abschlusse eines definitiven Handels- und Schiffahrtsvertrages mit Österreich-Ungarn werden die Boden- und Industrieerzeugnisse Österreichs und Ungarns in Portugal hinsichtlich der Einfuhr- und Konsumabgaben derselben Behandlung unterliegen wie die Boden- und Industrieerzeugnisse der meistbegünstigten Nationen, unter der Bedingung, dass die Boden- und Industrieerzeugnisse Portugals in dem Vertragszollgebiete der beiden Staaten der österreichisch-ungarischen Monarchie gleichfalls wie jene der meistbegünstigten Nationen behandelt werden.

Die vorstehende Vereinbarung kann nicht angerufen werden bezüglich jener Spezialbegünstigungen, welche von Portugal an Spanien und Brasilien bereits zugestanden wurden oder in Zukunft zugestanden werden.

Die portugiesische Regierung erkennt an, dass die Weinbezeichnungen Tokajer, Tokajer Ausbruch, Szamorodner, Hegyaljaer, Máslás oder im allgemeinen jede Benennung nach dem Tokajer Weingebiete ausschliesslich jenen Weinen zukommt, die aus den das Tokajer Weingebiet bildenden Ge-

de Tokaj et il s'engage à procéder, en cas de contravention, conformément aux lois du pays, à condition que les Gouvernements de l'Autriche et de la Hongrie reconnaissent que les désignations des vins de Porto et de Madère appartiennent exclusivement aux vins récoltés dans les régions portugaises, notamment du Douro et de l'île de Madère, et qu'ils s'engagent à poursuivre sur leurs territoires, conformément aux prescriptions de la législation intérieure actuellement en vigueur, tout abus des désignations susdites par rapport aux vins qui ne seraient pas originaires des respectives régions du Portugal et de l'île de Madère.

Le traitement de la nation la plus favorisée est, à condition de réciprocité, aussi appliqué en ce qui concerne le commerce, l'industrie et la navigation aux ressortissants autrichiens et hongrois résidant ou de passage en Portugal et aux ressortissants portugais résidant ou de passage en Autriche ou en Hongrie.

Le régime ainsi établi s'étendra à tous les pays qui appartiennent ou appartiendront à l'avenir au territoire douanier conventionnel des deux Etats de la Monarchie austro-hongroise et, pour ce qui concerne le Portugal, à la métropole et aux îles adjacentes: Madère, Porto Santo et Azores. Toutefois, les produits des colonies portugaises, réexpédiés par l'intermédiaire des ports du Portugal et des îles adjacentes, seront admis, en Autriche-Hongrie, comme s'ils étaient originaires du Portugal et ne seront passibles d'aucune surtaxe ou traitement dés-

meinden stammen und verpflichtet sich, in Fällen von Zuwiderhandlungen nach Massgabe der Gesetze des Landes vorzugehen unter der Bedingung, dass die Regierungen Österreichs und Ungarns anerkennen, dass die Bezeichnung Porto- und Madeirawein ausschliesslich den aus den bezüglichen portugiesischen Bezirken, insbesondere des Duro und der Insel Madeira stammenden Weinen zukommt und sich verpflichten, in ihren Gebieten nach Massgabe der in Geltung stehenden inneren Gesetzgebung jeden Missbrauch der genannten Bezeichnungen bei Weinen, die nicht aus den bezüglichen Gegenden Portugals oder der Insel Madeira stammen, zu verfolgen.

Unter der Bedingung der Gegenseitigkeit findet die Behandlung auf dem Fusse der Meistbegünstigung hinsichtlich des Handels, der Industrie und der Schiffahrt auch Anwendung auf die dauernd oder vorübergehend in Portugal sich aufhaltenden österreichischen und ungarischen Staatsangehörigen und auf die dauernd oder vorübergehend in Österreich oder Ungarn sich aufhaltenden portugiesischen Staatsangehörigen.

Die hiemit getroffenen Vereinbarungen werden für alle Länder gelten, die dem Vertragszollgebiete der beiden Staaten der österreichisch-ungarischen Monarchie angehören oder in Zukunft angehören werden und hinsichtlich Portugals für das Mutterland und die anliegenden Inseln: Madeira, Porto Santo und die Azoren. Auch die Erzeugnisse der portugiesischen Kolonien, die aus den Häfen Portugals und der anliegenden Inseln zur Wiederausfuhr gelangen, werden in Österreich-Ungarn so behandelt werden, als ob sie aus Portugal stammen

avantageux en rapport aux produits similaires de toute autre provenance. La disposition précédente n'empêchera cependant pas l'accomplissement des obligations imposées par les actes de Bruxelles relatifs au régime des sucres.

Le régime de la nation la plus favorisée sera réciproquement maintenu jusqu'à la mise en vigueur du Traité de commerce définitif, sauf le droit de le dénoncer moyennant un avis préalable de six mois.

En réservant à une entente ultérieure la fixation de la date de la mise en vigueur de ce régime, je saisis cette occasion, Monsieur le Comte, pour vous renouveler les assurances de ma considération très-distinguée.

Lisbonne, le 8 juillet 1911.

Bernardino Machado m. p.

A Monsieur
le Comte Brandis,
Chargé d'affaires de l'Autriche-Hongrie.

würden, und keinem Zollzuschlage oder keiner ungünstigeren Behandlung unterworfen sein, als die gleichartigen Erzeugnisse jeder anderen Herkunft. Durch die vorstehende Bestimmung soll indes die Erfüllung der durch die Brüsseler Zuckerakte übernommenen Verpflichtungen nicht behindert werden.

Unbeschadet des Rechtes, diese Vereinbarung durch eine sechs Monate vorher erfolgende Verständigung zu kündigen, wird die Behandlung auf dem Fusse der Meistbegünstigung gegenseitig bis zu dem Zeitpunkte in Geltung bleiben, in welchem der definitive Handelsvertrag in Kraft tritt.

Indem ich die Bestimmung des Datums und des Inkrafttretens dieses Regimes einer weiteren Vereinbarung vorbehalte, ergreife ich die Gelegenheit, Sie, Herr Graf, erneut meiner ausgezeichnetsten Hochachtung zu versichern.

Lissabon, am 8. Juli 1911.

Bernardino Machado m. p.

An den Herrn
österreichisch-ungarischen Geschäftsträger
Grafen Brandis.

95.

BELGIQUE, JAPON.

Arrangement commercial; réalisé par un Echange de notes du 8 juillet 1911.

Copie officielle.

Ministère
des
Affaires Etrangères.

Bruxelles, le 8 juillet 1911.

Monsieur le Ministre,

J'ai l'honneur de faire savoir à Votre Excellence qu'à partir du 17 juillet prochain — date d'expiration du traité de commerce et de navigation conclu le 22 juin 1896 entre la Belgique et le Japon*) — et jusqu'à la conclusion et à la mise en vigueur du nouveau traité actuellement en négociation entre les deux pays le Gouvernement du Roi s'engage à accorder au Japon le traitement de la nation la plus favorisée en matière de commerce, de navigation et de douane.

Il est entendu que l'application de ce régime est subordonnée à la condition que, par réciprocité, le Gouvernement Impérial garantisse à la Belgique le traitement de la nation la plus favorisée en matière de commerce, de navigation et de douane.

Je saisis . . . . etc.

J. Davignon.

Son Excellence
Monsieur Nabeshima etc. etc. etc.
Bruxelles.

Légation du Japon.

Bruxelles, le 8 juillet 1911.

Monsieur le Ministre,

D'après les ordres de mon Gouvernement, j'ai l'honneur de porter à la connaissance de Votre Excellence que, à partir du 17 juillet 1911 jusqu'à la conclusion et à la mise en vigueur du traité de commerce et de navigation actuellement en négociation entre le Japon et la Belgique, le Gouvernement Impérial s'engage à accorder à la Belgique le traitement de la nation la plus favorisée en matière de commerce, de navigation et de douane à la condition que le Gouvernement Royal de son côté

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*) V. N. R. G. 2. s. XXV, p. 25.

garantisse également au Japon sous ces rapports, le traitement de la nation la plus favorisée.

Je saisis cette occasion, Monsieur le Ministre, de renouveler à Votre Excellence les assurances de ma plus haute considération.

K. Nabeshima.

Monsieur Davignon,
Ministre des Affaires Etrangères,
Bruxelles.

96.

ITALIE, JAPON.

Accord provisoire de commerce, de douanes et de navigation, réalisé par un Echange de notes du 12 juillet 1911.

Gazzetta ufficiale 1911. No. 166.

Il ministro italiano degli affari esteri all'ambasciatore del Giappone in Roma.

Rome, le 12 juillet 1911.

Monsieur l'ambassadeur,

Tout portant à croire que la conclusion d'un nouveau traité de commerce et de navigation entre l'Italie et le Japon ne pourra avoir lieu qu'après le 17 juillet prochain, date à laquelle prendra sa fin le traité du 1er décembre 1894*), j'ai l'honneur de proposer à Votre Excellence, au nom du Gouvernement italien, ce qui suit:

A partir du 17 juillet 1911 les rapports entre l'Italie et le Japon, en matière de commerce, de douane et de navigation, seront réglés sur la base du traitement de la nation la plus favorisée, sans restrictions ou conditions, de manière que l'une des deux Parties sera admise à bénéficier librement et gratuitement des concessions et des privilèges, en la dite matière, que l'autre Partie a déjà accordés, ou pourrait accorder, à une tierce Puissance.

Le présent accord aura force et valeur jusqu'à l'application du traité définitif, à stipuler dans le plus bref délai possible, sauf, pour chacune des deux Parties, le droit d'en faire cesser les effets en tout temps, moyennant un avis préalable de trois mois.

Veuillez agréer, etc.

A. di San Giuliano.

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*) V. N. R. G. 2. s. XXII, p. 632.

L'ambasciatore del Giappone in Roma al ministro italiano degli affari esteri.

Rome, le 12 juillet 1911.

Monsieur le ministre,

En réponse à la note de Votre Excellence en date de ce jour j'ai l'honneur de l'informer que je suis autorisé par le Gouvernement impérial à accepter, à son nom, la proposition du Gouvernement royal contenue dans la note précitée, à savoir:

A partir du 17 juillet 1911 les rapports entre l'Italie et le Japon, en matière de commerce, de douane et de navigation, seront réglés sur la base du traitement de la nation la plus favorisée, sans restrictions ou conditions, de manière que l'une des deux Parties sera admise à bénéficier librement et gratuitement des concessions et des privilèges, en la dite matière, que l'autre Partie a déjà accordés, ou pourrait accorder, à une tierce Puissance.

Le présent accord aura force et valeur jusqu'à l'application du traité définitif, à stipuler dans le plus bref délai possible, sauf, pour chacune des deux Parties, le droit d'en faire cesser les effets en tout temps, moyennant un avis préalable de trois mois.

Je saisis cette occasion, etc. *Hayashi.*

97.

ALLEMAGNE, BULGARIE.

Echange de notes diplomatiques afin d'étendre la durée du Traité de commerce conclu le 1er août 1905;*) du 29 septembre 1911.

Deutsches Reichs-Gesetzblatt 1912. No. 50.

Légation Royale de Bulgarie.

Berlin, le 29 septembre 1911.

Monsieur le Secrétaire d'Etat,

Le Traité de commerce, de douane et de navigation conclu, le 1er août 1905, entre la Bulgarie et l'Empire Allemand, devant expirer, conformément à la stipulation de l'article 23, une année après sa dé-

(Übersetzung.)

Königlich Bulgarische Gesandtschaft.

Berlin, den 29. September 1911.

Herr Staatssekretär!

Da der am 1. August 1905 zwischen Bulgarien und dem Deutschen Reiche abgeschlossene Handels-, Zoll- und Schiffahrtsvertrag nach der Vereinbarung in Artikel 23 ein Jahr nach seiner Kündigung ablaufen soll,

*) V. N. R. G. 2. s. XXXIV. p. 664.

nonciation, le Gouvernement Impérial Allemand a exprimé le désir de fixer à nouveau une date précise et assez éloignée pour la durée de ce Traité et d'établir, de cette manière, une nouvelle base solide pour le développement du commerce entre les deux pays. D'après les pourparlers qui ont eu lieu à ce sujet, il conviendrait à Votre Gouvernement d'accommoder le terme de l'expiration dudit Traité à celui de la plupart des autres Conventions commerciales conclues par l'Empire Allemand.

hat die Kaiserlich Deutsche Regierung den Wunsch ausgesprochen, von neuem einen bestimmten und hinreichend fernliegenden Zeitpunkt für die Geltungsdauer dieses Vertrags festzusetzen und auf diese Weise eine neue sichere Grundlage für die Entwicklung des Handels zwischen den beiden Ländern zu schaffen. Nach den in dieser Hinsicht gepflogenen Verhandlungen würde es Ihrer Regierung genehm sein, den Termin des Ablaufs dieses Vertrags mit dem der Mehrzahl der übrigen vom Deutschen Reiche abgeschlossenen Handelsabkommen in Einklang zu bringen.

Le Gouvernement Royal Bulgare, animé de même du désir à établir une base solide pour les relations commerciales entre les deux pays, m'a chargé de déclarer, sous réserve du consentement du Sobranié Bulgare, qu'il est tout prêt à la prolongation proposée, savoir, à étendre la durée du Traité de commerce, de douane et de navigation entre la Bulgarie et l'Allemagne jusqu'au 31 décembre 1917 (n. st.). Il y serait entendu que, dans le cas où aucune des Parties contractantes n'aurait notifié douze mois avant l'échéance de ce terme son intention de faire cesser ses effets, le Traité continuerait à être obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des deux Parties l'aura dénoncé.

Die Königlich Bulgarische Regierung, in gleicher Weise von dem Wunsche beseelt, eine feste Grundlage für die Handelsbeziehungen zwischen den beiden Ländern zu schaffen, hat mich beauftragt, unter Vorbehalt der Zustimmung der Bulgarischen Sobranje zu erklären, daß sie zu der vorgeschlagenen Verlängerung, das heisst zu der Ausdehnung der Geltungsdauer des Handels-, Zoll- und Schiffahrtsvertrags zwischen Bulgarien und Deutschland bis zum 31. Dezember 1917 (n. St.) bereit ist. Dabei würde Einverständnis darüber herrschen, dass, im Falle keiner der vertragschliessenden Teile zwölf Monate vor dem Ablauf dieses Termins seine Absicht kundgegeben haben sollte, die Wirkungen des Vertrags aufhören zu lassen, dieser weiter in Geltung bleiben soll bis zum Ablauf eines Jahres von dem Tage ab, an dem der eine oder der andere der beiden Teile ihn gekündigt haben wird.

En priant Votre Excellence de bien vouloir me confirmer l'arrange-

Indem ich Euere Exzellenz bitte, mir das hiernach getroffene Abkom-

ment conclu de cette manière, je saisis etc.

I. S. Guéchow.

A Son Excellence Monsieur von Kiderlen-Waechter, Secrétaire d'Etat des Affaires Etrangères.

Auswärtiges Amt.

Berlin, le 29 septembre 1911.

Monsieur le Ministre,

Par Votre lettre en date de ce jour, Vous m'avez notifié que, sous réserve du consentement du Sobranié Bulgare, le Gouvernement Royal Bulgare, afin d'établir une nouvelle base solide pour les relations commerciales entre nos deux pays, est prêt à prolonger la durée du Traité de commerce, de douane et de navigation, conclu le 1[er] août 1905, entre l'Empire Allemand et la Bulgarie et qui, conformément à la stipulation de l'article 23, devait expirer une année après sa dénonciation, jusqu'au 31 décembre 1917 (n. st.). Il y serait entendu que, dans le cas où aucune des deux Parties contractantes n'aurait notifié douze mois avant l'échéance de ce terme son intention de faire cesser ses effets, le Traité continuerait à être obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des deux Parties l'aura dénoncé.

Cette prolongation tenant compte du désir exprimé à ce sujet par mon Gouvernement j'ai l'honneur de prendre acte, au nom de mon Gou-

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men gefälligst zu bestätigen, ergreife ich usw.

An Seine Exzellenz Herrn von Kiderlen-Waechter, Staatssekretär des Auswärtigen Amts.

(Übersetzung.)

Auswärtiges Amt.

Berlin, den 29. September 1911.

Herr Minister!

Durch Ihr Schreiben vom heutigen Tage haben Sie mich davon benachrichtigt, dass die Königlich Bulgarische Regierung, zwecks Schaffung einer neuen sicheren Grundlage für die Handelsbeziehungen zwischen unseren beiden Ländern, unter Vorbehalt der Zustimmung der Bulgarischen Sobranje bereit ist, die Geltungsdauer des am 1. August 1905 zwischen dem Deutschen Reiche und Bulgarien abgeschlossenen Handels-, Zoll- und Schiffahrtsvertrags, der nach der Vereinbarung in Artikel 23 ein Jahr nach seiner Kündigung ablaufen soll, bis zum 31. Dezember 1917 (n. St.) zu verlängern. Dabei würde Einverständnis darüber herrschen, dass, im Falle keiner der beiden vertragschliessenden Teile zwölf Monate vor dem Ablauf dieses Termins seine Absicht kundgegeben haben sollte, die Wirkungen des Vertrags aufhören zu lassen, dieser weiter in Geltung bleiben soll bis zum Ablauf eines Jahres von dem Tage ab, an dem der eine oder der andere der beiden Teile ihn gekündigt haben wird.

Da diese Verlängerung dem von meiner Regierung in dieser Hinsicht geäusserten Wunsche entspricht, beehre ich mich, im Namen meiner

vernement, de Votre notification et de Vous confirmer, tout en réservant l'approbation des corps législatifs Allemands, la prolongation susmentionnée dudit Traité.

Veuillez agréer, Monsieur le Ministre, etc.

Kiderlen.

A Monsieur Guéchow, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté le Roi des Bulgares.

Regierung von Ihrer Erklärung Akt zu nehmen und Ihnen, unter Vorbehalt der Zustimmung der Deutschen gesetzgebenden Körperschaften, die oben bezeichnete Verlängerung des gedachten Vertrags zu bestätigen.

Genehmigen Sie, Herr Minister, usw.

An Herrn Geschow, ausserordentlichen Gesandten und bevollmächtigten Minister Seiner Majestät des Königs der Bulgaren.

Die in dem vorstehenden Notenwechsel getroffene Vereinbarung hat in beiden Ländern die verfassungsmässige Genehmigung gefunden.

98.

JAPON, AUTRICHE-HONGRIE.

Arrangement de commerce provisoire; signé à Vienne, le 22 décembre 1911.

The Japan Daily Mail du 29 décembre 1911.

Accord Provisoire commercial entre le Japon et l'Autriche-Hongrie.

Le soussigné, Ministre de la Maison Impériale et Royale et des Affaires Etrangères, dûment autorisé à cet effet, a l'honneur de porter à la connaissance de Son Excellence Monsieur l'Ambassadeur extraordinaire et plénipotentiaire Impérial du Japon que, à partir du premier janvier 1912 et jusqu'à la conclusion et à la mise en vigueur du nouveau Traité de commerce et de navigation actuellement en négociation entre l'Autriche-Hongrie et le Japon, mais au plus tard jusqu'au 30 juin 1912, l'Autriche-Hongrie s'engage à accorder au Japon le traitement de la nation la plus favorisée en ce qui concerne le commerce, les droits de douane et la navigation, à la condition que le Gouvernement Impérial du Japon, de son côté, garantisse également à l'Autriche-Hongrie, sous ces rapports, le traitement de la nation la plus favorisée.

Le soussigné saisit cette occasion pour renouveler à Son Excellence Monsieur l'Ambassadeur l'assurance de sa haute considération.

Vienne, le 22 décembre 1911.

(Signé) *Aehrenthal.*

A Son Excellence
Monsieur Satsuo Akidzuki,
Ambassadeur extraordinaire et plénipotentiaire
de Sa Majesté l'Empereur du Japon.

Le soussigné, Ambassadeur extraordinaire et plénipotentiaire du Japon, dûment autorisé à cet effet par son Gouvernement, a l'honneur de porter à la connaissance de Son Excellence Monsieur le Ministre de la Maison Impériale et Royale et des Affaires Etrangères de l'Autriche-Hongrie que, à partir du premier janvier 1912 et jusqu'à la conclusion et à la mise en vigueur du nouveau traité de commerce et de navigation actuellement en négociation entre le Japon et l'Autriche-Hongrie, mais au plus tard jusqu'au 30 juin 1912, le Gouvernement Impérial s'engage à accorder à l'Autriche Hongrie le traitement de la nation la plus favorisée en ce qui concerne le commerce, les droits de douane et la navigation, à la condition que l'Autriche-Hongrie, de son côté, garantisse également au Japon sous ces rapports le traitement de la nation la plus favorisée.

Le soussigné saisit cette occasion pour renouveler à Son Excellence Monsieur le Ministre de la Maison Impériale et Royale et des Affaires Etrangères, l'assurance de sa haute considération.

Vienne, le 22 décembre, 1911.

(Signé) *S. Aridzuki.*

99.

SUÈDE, DANEMARK.

Convention pour régler la pêche dans les eaux avoisinant la Suède et le Danemark; signée à Stockholm, le 14 juillet 1899.*)

Svensk Författnings-Samling 1899. No. 83.

Hans Maj:t Konungen af Sverige och Norge och Hans Maj:t Konungen af Danmark, hvilka öfverenskommit att afsluta en konvention angående fiskeriförhållandena i de till Sverige och Danmark gränsande farvattnen, hafva för sådant ändamål till sina befullmägtigade ombud utnämnt:

Hans Maj:t Konungen af Sverige och Norge:

Sin Minister för utrikes ärendena, Herr Grefve Ludvig Wilhelm August Douglas, riddare och kommendör af Kongl. Maj:ts orden, storkors af Kongl. danska Dannebrogs orden, m. m.

och Hans Maj:t Konungen af Danmark:

Sin Envoyé extraordinaire och ministre plénipotentiaire hos Hans Maj:t Konungen af Sverige och Norge, Grefve Frederik Wilhelm Sponneck, Kammarherre, Hofjägmästare, kommendör af Kongl. danska Dannebrogsorden, första graden, och Dannebrogsman, kommendör med stora korset af Kongl. Nordstjerneorden, riddare af Kongl. Wasa orden och af Kongl. norska S:t Olafs orden, m. m.,

hvilke, efter att hafva utvexlat sina i god och behörig form funna

Hans Majestæt Kongen af Sverig og Norge og Hans Majestæt Kongen af Danmark, der ere komne overens om at afslutte en Konvention vedrörende Ordningen af Fiskeriforholdene i de til Sverig og Danmark grænsende Farvande, have til den Ende udnævnt til deres Befuldmægtigede:

Hans Majestæt Kongen af Sverig og Norge:

Allerhöjstsammes Minister for de udenlandske Sager, Herr Greve Ludvig Wilhelm August Douglas, Ridder og Kommandör af de Kongelig Svenske Ordener, Storkors af Kongelig Danske Dannebrogsordenen, m. m.

og Hans Majestæt Kongen af Danmark:

Allerhöjstsammes overordentlige Gesandt og befuldmægtigede Minister hos Hans Majestæt Kongen af Sverig og Norge, Greve Frederik Wilhelm Sponneck, Kammerherre, Hofjægermester, Kommandör af Dannebrogsordenen af 1:ste Grad og Dannebrogsmand, Kommandör med Storkorset af den Kongelig Svenske Nordstjerneorden, Ridder af den Kongelig Svenske Wasaorden og af den Kongelig Norske S:t Olafsorden, m. m.,

hvilke, efter at have udvekslet deres Fuldmagter, der ere befundne i god

*) Les ratifications ont été échangées à Stockholm, le 10 novembre 1899.

fullmagter, hafva öfverenskommit om följande artiklar:

Art. I.

I de till konungarikena Sverige och Danmark gränsande, farvattnen skall, med de i Art. II nämnda undantag, det område, hvarest fisket är uteslutande förbehållet hvartdera landets egna undersåtar, anses utåt hafvet sträcka sig en geografisk mil ($^1/_{15}$ breddgrad) från kusten eller ytterst derutanför liggande holmar och skär, som icke ständigt af vattnet öfversköljas.

Med sagda farvatten förstås i denna öfverenskommelse:

Kattegat, begränsadt mot norr af räta linier, dragna från Skagens nordligaste udde till Vinga fyr och vidare derifrån till närmaste kusten af Hisingen samt mot söder af räta linier, dragna från Hasenöre till Gniben och från Kullen till Gilbjerghoved;

Öresund, räknadt från Kullen-Gilbjerghoved i norr till Falsterbo-Stevns i söder;

samt *af Östersjön:* farvattnen längs svenska kusten från Falsterbo till Simbrishamn äfvensom kring Bornholm och Kristiansö.

Dock skall det vara medgifvet att drifva fiske: för svenska fiskare vid ön Anholt på ett afstånd af intill $^3/_4$ geografisk mil från kusterna af denna ö, och för danska fiskare på enahanda afstånd utanför en rät linie, dragen från Hallands Väderös fyr till Tylö fyr.

Art. II.*)

I Öresund skall fiske allestädes vara tillåtet för båda ländernas un-

og behörig Form, ere komne overens om fölgende Artikler:

Art. I.

I de til Kongerigerne Sverig og Danmark grænsende Farvande skal, med de i Art. II nævnte Undtagelser, det Omraade, hvor Fiskeriet udelukkende er forbeholdt hvert Lands egne Undersaatter, udgöre en Strækning af 1 geografisk Mil ($^1/_{15}$ Bredegrad) fra Kysten eller yderste derudfor liggende Holme og Skær, som ikke til Stadighed overskylles af Vandet.

Til disse Farvande skal i denne Overenskomst henregnes:

Kattegat, begrænset mod Nord af rette Linier, dragne fra Skagens nordligste Pynt til Vinga Fyr og videre derfra til nærmeste Kyst af Hisingen, samt mod Syd af rette Linier, dragne fra Hasenöre til Gniben og fra Kullen til Gilbjerghoved;

Öresund, regnet fra Kullen-Gilbjerghoved mod Nord til Falsterbo-Stevns mod Syd, samt af

Östersöen, Farvandet langs den svenske Kyst fra Falsterbo til Simbrishamn, saavelsom omkring Bornholm og Kristiansö.

Dog skal det være svenske Fiskere tilladt at drive Fiskeri ved Öen Anholt indtil en Afstand af $^3/_4$ geografisk Mil fra denne Öes Kyster, ligesom det ogsaa skal være danske Fiskere tilladt at drive Fiskeri i samme Afstand udenfor en ret Linie, draget fra Hallands Väderös Fyr til Tylö Fyr.

Art. II.*)

I Öresund skal Fiskeriet overalt være fælles for begge Landes Under-

*) V. la Déclaration du 5 octobre 1907; ci-dessous No. 101.

dersåtar utan åtskilnad, dock med den inskränkning att vid stränderna å ömse sidor sundet innanför ett djup af sju meter det andra landets undersåtar icke må drifva annat fiske än sillfiske med garn. Likaledes skall vid Bornholms och Kristiansös kuster samt vid svenska kusten från Falsterbo till Simbrishamn sillfisked med drifgarn vara gemensamt för båda ländernas undersåtar från den 1 Maj till den 31 Augusti.

Strand- och fiskerättsegare förbehållas de särskilda rättigheter, som dem jemlikt hvartdera landets lagar och författningar kunna tillkomma.

Art. III.

Det skall vara båda ländernas fiskare tillåtet att, utan intrång i enskild rätt och under iakttagande af gällande tullföreskrifter samt andra dylika bestämmelser, ej mindre i Öresund än äfven å de enligt Art. I hvartdera landet förbehållna fiskeområdena fritt färdas och ankra.

Art. IV.

Vid fiskets bedrifvande skola båda ländernas fiskare iakttaga att, sedan någon intagit en fiskeplats och behörigen utmärkt sin redskap, han icke må, så länge han har sin redskap behörigen utmärkt och begagnar densamma till fiske, utträngas derifrån eller lida intrång i sitt fiske af andra fiskare.

Sättes eller drifver fiskredskap på annan mans behörigen utmärkta redskap, eller drages not (vad) så, att behörigen utmärkt redskap skadas, skall dennes egare hafva rätt till ersättning af den, som tillfogat honom sådan skada, så framt icke skadan skett genom nödtvång eller annan orsak, som ej kan tillräknas denne.

saatter, dog med den Indskrænkning, at der ikke indenfor et Dyb af 4 Favne ved Kysterne af Sundet hver for sig maa drives andet Fiskeri af det andet Lands Undersaatter end Sildefiskeri med Garn. Ligeledes skal ved Bornholms og Kristiansö's Kyster og ved den svenske Kyst fra Falsterbo til Simbrishamn, Sildefiskeriet med Drivgarn være fælles for begge Landes Undersaatter fra 1:ste Maj til 31:te August.

Kyst- og Fiskeriejere forbeholdes de særlige Rettigheder, som ifölge deres Lands Love og Bestemmelser maatte tilkomme dem.

Art. III.

Saavel i Öresund som paa de ifölge Artikel I hvert Land forbeholdte Fiskeomraader, skal det være begge Landes Fiskere tilladt at færdes frit og at ankre, naar der ikke derved sker Indgreb i særskilte Rettigheder, og naar de gældende Toldforskrifter og andre lignende Bestemmelser overholdes.

Art. IV.

Ved Fiskeriets Udövelse skulle begge Landes Fiskere iagttage, at naar Nogen har indtaget en Fiskeplads og behörigt afmærket sit Redskab, maa han ikke, saalænge han har sit Redskab behörigt afmærket og benytter det til sit Fiskeri, fortrænges fra Stedet eller forulæmpes i sit Fiskeri af andre Fiskere.

Sættes eller driver Fiskeredskab i anden Mands behörigt afmærkede Redskab, eller drages Vaad saaledes, at behörigt afmærket Redskab skades, skal Ejeren af dette have Ret til Erstatning af den, som har tilföjet ham saadan Skade, saafremt Skaden ikke er foraarsaget ved Nödstilstand eller utilregnelig Aarsag.

För att redskap skall anses vara behörigen utmärkt, skola följande regler vara iakttagna:

1) *Bottengarn, ålhommesätt* („ålestader“), *räkrusor, strandsätt för lax* och annan dylik redskap, som är fästad vid pålar, skall vid hufvudpålen eller den yttersta pålen vara försedd med en mörk flagg, som når minst en och en half meter öfver vattnet.

2) *Ryssjor* (hommor), som icke äro fästade vid pålar, skola, när de sättas spridda, hvar för sig vara utmärkta med en upprättstående stake utan topptecken, hvilken räcker minst tolf decimeter öfver vattnet. Utsättas ryssjorna (hommorna) i rad, kan afmärkningen inskränkas till en sådan stake för de två yttersta ryssjorna i raden och en boj eller mindre stake för hvar och en af de öfriga ryssjorna.

Tinor skola vara utmärkta genom en flytande träklabb.

3) För *annan fastslående redskap,* vare sig densamma är bottensatt eller flyter närmare ytan, skall vid hvardera ändan af länken anbringas en stake, med eller utan tunna, hvars topp räcker minst tolf decimeter öfver vattnet och är utmärkt med en flagga, tre decimeter i fyrkant, för den ända af länken, som stånri kompassens östliga halfcirkel (från norr genom ost till syd), samt två trekantiga, tre decimeter långa flaggor för den ända, som står i kompassens vestliga halfcirkel (från syd genom vest till norr). Mellan dessa märken skall anbringas en mindre stake utan topptecken eller en boj för minst hvar nio hundra fyrtionde meter.

4) *Snurrevadar* (strykvadar) *och drifvadar* skola vid notpåsen eller kalfven (kilen) vara försedda med

For at et Redskab kan anses for behörigt afmærket, skulle fölgende Regler være iagttagne:

1. *Bundgarn, Aalestader, Rejeruser, Laksegarn* og deslige Redskaber, som ere fastgjorte til Pæle, skulle paa Hovedpælen eller den yderste Pæl være forsynede med et mörkt Flag, som rager mindst 5 Fod over Vandet.

2. *Ruser*, som ikke ere fastgjorte til Pæle, skulle naar de sættes spredte, afmærkes hver for sig med en opretstaaende Stage uden Topbetegnelse, som rager mindst 4 Fod over Vandet. Sættes Ruserne i Række, kan Afmærkningen indskrænkes til en saadan Stage for de to yderste Ruser i Rækken og en Böje eller mindre Stage for hver af de övrige Ruser.

Tejner skulle afmærkes med en svömmende Træklods.

3. *Andet faststaaende Redskab*, hvad enten det er bundsat eller flydende, skal afmærkes for hver Ende af Lænken med en Stage med eller uden Tönde, hvis Top rager mindst 4 Fod over Vandet og mærkes med et Flag, 1 Fod i Firkant, for den Ende af Lænken, der staar i Kompassets östlige Halvcirkel (fra Nord gennem Öst til Syd), samt to trekantede 1 Fod lange Flag for den Ende, som staar i Kompassets vestlige Halvcirkel (fra Syd gennem Vest til Nord). Mellem disse Mærker skal anbringes en mindre Stage uden Topbetegnelse eller en Böje for mindst hver 500 Favne.

4. *Snurrevaad og Drivvaad* skulle ved Kalven være forsynede med Böjereb og en sortmalet Tönde eller Böje

bojlina samt en svartmålad kagge eller boj utan topptecken. Vid fiske med snurrevad skall från fartyget vara utsatt en stake med blå flagg i den rigtning, hvari vaden är utsatt.*)

5) *Drifvande eller svajande redskap* skall vid den fasta ändan af länken, som är förankrad vid botten eller fastgjord vid båten, utmärkas med en boj utan stake, samt vid den fria ändan med en boj med stake, som räcker minst tolf decimeter öfver vattnet.

Drifvande redskap skall, när fisket sker i Öresund, om natten föra en hvit lanterna på denna stake; svajande redskap skall föra en trekantig flagg.

6) Inga fiskemärken, utom de i 1) nämnda, må räcka högre öfver vattnet än en och en half meter.

uden Topbetegnelse. Under Snurrevaadsfiskeri skal der fra Fartöjet udsættes en Stage med blaat Flag i den Retning, hvori Vaaddet er udsat.*)

5. *Drivende eller svajende Redskab* skal ved den faste Ende af Lænken, der er forankret til Bunden eller fastgjort til Baad, afmærkes med en Böje uden Stage, samt ved den frie Ende med en Böje med Stage, som rager mindst 4 Fod over Vandet.

Drivende Redskab skal, naar det benyttes i Öresund om Natten före en klar Lanterne paa denne Stage. Svajende Redskab skal före et trekantet Flag.

6. Intet Fiskemærke maa rage höjere over Vandet end 5 Fod, herfra dog undtaget de under Post 1 nævnte.

Art. V.

Det i Art. IV nämnda skydd för fastående redskap gäller beträffande omkring Bornholm och Kristiansö utsatta laxlinor eller laxrefvar endast från och med den 1 Oktober till den 1 April.

Art. V.

Den i Art. IV ommeldte Beskyttelse for faststaaende Fiskeredskaber, skal, med Hensyn til de omkring Bornholm og Kristiansö udsatte Lakseliner, kun være gældende fra og med 1 Oktober til 1 April.

Art. VI.

Artiklarna IV och V hafva afseende å farvattnen utanför de hvartdera landet förbehållna fiskeområdena samt jemväl å de platser, der fiske enligt Art. II är gemensamt för begge rikenas undersåtar.

Art. VI.

Artiklerne IV og V gælde for Farvandene udenfor de hvert Land forbeholdte Fiskeomraader, samt for de Steder, hvor Fiskeriet ifölge Art. II er fælles for begge Landes Undersaatter.

Art. VII.

Öfverträdelser af de i artikel IV gifna föreskrifter skola, för såvidt de angå handlingar begångna utanför det hvartdera landet förbehållna fiskeområdet, äfvensom i Öresund på större afstånd än en geografisk mil från

Art. VII.

Overtrædelser af de i Artikel IV givne Forskrifter skulle, forsaavidt de angaa Handlinger, der ere begaaede udenfor det hvert Land forbeholdte Fiskeomraade, saavelsom i Öresund i större Afstand end 1 geo-

*) V. la Déclaration du 23 avril 1902, ci-dessous No. 100.

närmaste land, ö eller skär, som icke ständigt öfversköljes af vatten, straffas med böter från och med tio till och med tvåhundra kronor.

Art. VIII.

Öfverträdelser, som i artikel VII omförmälas, åtalas och afdömas i det land, hvartill den skyldiges fartyg hörer.

Art. IX.

De farkoster, som idka fiske i de farvatten, denna öfverenskommelse omfattar, skola vara tydligt märkta med nummer och stationsmärke, såväl å skrofvet som å storseglet.

Art. X.

De båda ländernas regeringar förpligta sig att underrätta hvarandra om de åtgärder, som vidtagas för tillsynen öfver efterlefnaden af de i denna öfverenskommelse meddelade bestämmelser.

Art. XI.

Denna konvention skall träda i kraft genast efter det ratifikationerna utvexlats och förblifva gällande intill dess sex månader förflutit från den dag, då endera af de höga parterna uppsagt densamma.

Till bekräftelse häraf hafva de respektive fullmägtige undertecknat denna konvention och försett densamma med sina sigill.

Som skedde uti två exemplar i Stockholm den 14 Juli 1899.

(L. S.) *L. Douglas.*

grafisk Mil fra nærmeste Land, Ö eller Skær, som ikke til Stadighed overskylles af Havet, straffes med Böder fra og med 10 til og med 200 Kroner.

Art. VIII.

De i Artikel VII omhandlede Overtrædelser paatales og paadömmes i det Land, hvortil den skyldiges Fartöj hörer.

Art. IX.

Fartöjer, som drive Fiskeri i Farvande, for hvilke denne Overenskomst er gældende, skulle være tydeligt afmærkede med Nummer og Hjemstedsmærke saavel paa Skroget som paa Storsejlet.

Art. X.

Begge Landes Regeringer forpligte sig til at underrette hinanden om de Foranstaltninger, som træffes for Tilsynet med Overholdelsen af de i denne Overenskomst indeholdte Bestemmelser.

Art. XI.

Denne Konvention skal træde i Kraft umiddelbart efterat Ratifikationerne ere udvekslede og forbliver gældende indtil 6 Maaneders Dagen efterat en af de höje Parter har opsagt den.

Til Bekræftelse heraf have de respektive Befuldmægtigede undertegnet denne Konvention og forsynet den med deres Segl.

Sket i to Exemplarer i Stockholm den 14 Juli 1899.

(L. S.) *W. Sponneck.*

Protokoll.

1. Till närmare bestämmande af den enligt art. X af den mellan H. M. Konungen af Sverige och Norge och H. M. Konungen af Danmark denna dag afslutade fiskerikonvention förutsatta tillsynen öfver konventionsbestämmelsernas efterlefnad hafva, efter dertill af regeringarne lemnadt bemyndigande, undertecknade, jemte förklarande att det ena landets fiskeritillsyn ej må sträckas in på det andra landets område, eller å farvatten, som ligger utanför det hvartdera landet förbehållna fiskeområdet, utöfvas mot andra än landets egna undersåtar, vidare afgifvit följande särskilda förklaringar.

Svenska regeringen förklarar sig vilja dels anbefalla vederbörande länsstyrelser förständiga sina underordnade att hålla noggrann uppsigt öfver att de i konventionens särskilda artiklar gifna bestämmelser icke af enskilde öfverträdas, dels ock söka, i den mån förhållandena det medgifva, bereda ytterligare anordningar för öfvervakande af att konventionens föreskrifter varda af de svenske undersåtarne vederbörligen iakttagna, och svenska regeringen har för sådant ändamål särskildt tänkt sig, att den kanonbåt, som under höst- och vintermånaderna plägar vara stationerad vid bohuslänska kusten, skulle kunna beordras att, då dess närvaro derstädes under dessa månader ej erfordras, och omständigheterna i öfrigt derför ej lägga hinder i vägen, besöka de i konventionen afsedda fiskeområdena för att utöfva ifrågavarande fiskeritillsyn, eller ock att, i den mån nödiga medel af Riksdagen anvisas, samma eller annan kanonbåt skulle äfven under

Protokol.

1. Til nærmere Bestemmelse af det ifölge Art. X af den mellem Hans Majestæt Kongen af Sverig og Norge og Hans Majestæt Kongen af Danmark i Dag afsluttede Fiskerikonvention forudsatte Tilsyn med Konventionsbestemmelsernes Efterlevelse, have Undertegnede, efter dertil af Regeringerne given Bemyndigelse, idet de samtidig erklære, at det ene Lands Fiskeritilsyn ikke maa strække sig ind paa det andet Lands Omraade, eller i Farvande, som ligge udenfor det hvert Land forbeholdte Fiskeomraade, udöves mod andre end Landets egne Undersaatter, endvidere afgivet fölgende særskilte Erklæringer:

Den svenske Regering erklærer at ville dels paalægge vedkommende Lensstyrelser at tilkjendegive deres Underordnede, at de have at holde nöjagtigt Opsyn med, at de i Konventionens enkelte Artikler givne Bestemmelser ikke af Private overtrædes, dels söge, alt eftersom Forholdene det medföre, at træffe yderligere Foranstaltninger for at vaage over, at Konventionens Forskrifter blive tilbörligt iagttagne af de svenske Undersaatter, og den svenske Regering har til den Ende særligt tænkt sig, at den Kanonbaad, som i Efteraars- og Vintermaanederne pleier at være stationeret ved den bohuslenske Kyst, vil kunne beordres til, naar dens Nærværelse dersteds i disse Maaneder ikke udfordres og Omstændighederne iövrigt ikke lægger nogen Hindring i Veien derfor, at besöge de i Konventionen tilsigtede Fiskeomraader for at udöve det omspurgte Fiskeritilsyn, eller ogsaa at samme eller en anden Kanonbaad, forsaavidt de nödvendige Midler dertil anvises af

andra tider af året för ändamålet användas.

Danska regeringen förklarar sig vilja träffa de för öfvervakande af konventionens bestämmelser och med hänsyn till polistillsynen nödvändiga åtgärder.

2. Vidare hafva undertecknade, dertill vederbörligen bemyndigade, öfverenskommit, att, derest mellan de kontraherande magterna meningsskiljaktigheter om tolkningen eller tillämpningen af konventionen uppstå och dessa icke kunna genom diplomatiska förhandlingar utjemnas, desamma skola hänskjutas till skiljedom.

Till yttermera visso hafva undertecknade underskrifvit detta protokoll i tvenne lika lydande exemplar och bekräftat detsamma med sina sigill, som skedde i Stockholm den 14 Juli 1899.

(L. S.) *L. Douglas.*

Rigsdagen, skal ligeledes paa andre Tider af Aaret anvendes i samme Öjemed.

Den danske Regering erklærer at ville træffe de til Overholdelsen af Konventionens Bestemmelser og med Hensyn til Polititilsynet nödvendige Forholdsregler.

2. Endvidere ere de Undertegnede, behörig befuldmægtigede dertil, komne overens om, at saafremt der mellem de kontraherende Magter opstaar Meningsforskel om Fortolkningen eller Anvendelsen af Konventionen, og de ikke kunne udjævnes gjennem diplomatiske Forhandlinger, skulle de undergives Voldgift.

Til ydermere Sikkerhed have Undertegnede underskrevet denne Protokol i tvende ligelydende Exemplarer og bekræftet samme med deres Segl, hvilket er skeet i Stockholm, den 14 Juli 1899.

(L. S.) *W. Sponneck.*

100.

DANEMARK, SUÈDE ET NORVÈGE.

Déclaration pour modifier l'article 4 de la Convention du 14 juillet 1899*) concernant la pêche; signée à Stockholm, le 23 avril 1902.*)

Copie officielle.

Deklaration.

Hans Majestæt Kongen af Danmark og Hans Majestæt Kongen af Sverig og Norge have bemyndiget de under-

Hans Majestät Konungen af Danmark och Hans Majestät Konungen af Sverige och Norge hafva bemyn-

*) V. ci-dessus, No. 99.

tegnede til at udfærdige følgende Deklaration:

Artikel IV Punkt 4 af den under 14 Juli 1899 i Stockholm afsluttede Konvention vedrørende Ordningen af Fiskeriforholdene i de til Danmark og Sverig grændsende Farvande erholder følgende ændrede Ordlyd:

„Drivvaad skulle ved Kalven være forsynede med Bojereb og en sortmalet Tønde eller Boje uden Topbetegnelse. Under Snurrevaadsfiskeriet skal der fra Fartøjet udsættes en Stage med blaat Flag i den Retning, hvor Passagen er fri.“

Nærværende Deklaration skal først træde i Kraft, naar den danske Lovgivningsmagt har vedtaget de Lovændringer, den nødvendiggør i Danmark.

Til Bekræftelse heraf have de undertegnede underskredet denne Deklaration og forsynet den med deres Segl.

Sket i to Exemplarer i Stockholm den 23 April 1902.

digat undertecknade att afgifva följande deklaration:

Artikel IV punkt 4 af den under den 14 juli 1899 i Stockholm afslutade konvention angående fiskeriförhållandena i de till Sverige och Danmark gränsande farvattnen erhåller följande ändrade lydelse:

„Drifvad skall vid notpåsen eller kalfven (kilen) vara försedd med bojlina samt en svartmålad kagge eller boj utan topptecken. Vid fiske med snurrevad skall från fartyget vara utsatt en stake med blå flagg i den riktning, hvarest passagen är fri.“

Denna deklaration skall träda ikraft först, sedan de lagändringar, som af densamma nödvändiggöras i Danmark, blifvit af detta lands lagstiftande myndigheter vidtagna.

Till bekräftelse häraf hafva undertecknade underskrifvit denna deklaration och försett densamma med sina sigill.

Som skedde i Stockholm i två exemplar den 23 april 1902.

Hans Majestæt Kongen af Danmarks Envoyé Extraordinaire og Ministre Plénipotentiaire:

(L. S.) (undert.) *W. Sponneck.*

Hans Majt. Konungens af Sverige och Norge Minister för utrikes ärendena:

(L. S.) (undert.) *Alf. Lagerheim.*

101.

DANEMARK, SUÈDE.

Déclaration pour modifier la Convention au sujet de la pêche conclue le 14 juillet 1899;*) signée à Stockholm, le 5 octobre 1907.

Copie officielle.

Deklaration.

Hans Majestæt Kongen af Danmark og Hans Majestæt Kongen af Sverig have bemyndiget Undertegnede til at afslutte følgende Deklaration:

Art. I.

Art. II i den under 14 Juli 1899 i Stockholm afsluttede Konvention angaaende Ordningen af Fiskeriforholdene i de til Danmark og Sverig grænsende Farvande skal have følgende Affattelse:

I Øresund skal Fiskeriet overalt være fælles for begge Landes Undersaatter, dog med den Indskrænkning, at der ikke indenfor et Dyb af 7 Meter (ca. 4 Favne) ved Kysterne af Sundet hver for sig maa drives andet Fiskeri af det andet Lands Undersaatter end Sildefiskeri med Garn. Af Drivgarn maa ved Sildefiskeriet kun benyttes Næringer. Udenfor den nævnte 7 Meters (ca. 4 Favne) Grænse i Øresund er al Slags Fiskeri med Trawl og Vaad forbudt.

Paa Middelgrunden er det dog tilladt at benytte Agnvaad. Ved Agnvaad forstaas saadanne Vaad, hvis Armes Længde tilsammens ikke overskrider $7^1/_2$ Meter (4 Favne).

Hans Majestät Konungen af Danmark och Hans Majestät Konungen af Sverige hafva bemyndigat undertecknade att afgifva följande deklaration:

Art. I.

Art. II af den under den 14 juli 1899 i Stockholm afslutade konvention angående fiskeriförhållandena i de till Danmark och Sverige gränsande farvattnen erhåller följande förändrade lydelse:

I Öresund skall fiske allestädes vara tillåtet för båda ländernas undersåtar utan åtskillnad, dock med den inskränkning att vid stränderna å ömse sidor Sundet innanför ett djup af sju meter det andra landets undersåtar icke må drifva annat fiske än sillfiske med garn. Såsom drifgarn vid sillfiske få endast närdingar användas. Utanför den nämnda sjumetersgränsen i Öresund är allt slags fiske med trawl och vad förbjudet.

På Middelgrundet är det likväl tillåtet att begagna agnnot. Med agnnot förstås sådan not, å hvilken armarnas längd tillsammans icke öfverskrider $7^1/_2$ Meter (4 famnar).

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*) V. ci-dessus, No. 99.

Ved Bornholms og Kristiansøs Kyster og ved den svenske Kyst fra Falsterbo til Simbrishamn skal Sildefiskeriet med Drivgarn være fælles for begge Landes Undersaatter fra 1ste Maj til 31ste August.

Kyst- og Fiskeriejere forbeholdes de særlige Rettigheder, som ifølge deres Lands Love og Bestemmelser maatte tilkomme dem.

Art. II.

Rødspætter, som ikke have en Totallængde af 25$^1/_2$ Centimeter (9$^3/_4$ Tomme) (21 Centimeter [8 Tommer] fra Snudespids til Halerod) maa ikke findes ombord i Fartøj eller Baad, som befinder sig paa Fiskeri eller Fiskehandel i Kattegat med dets Bugter og Fjorde eller ilandbringes ved Kysterne af Kattegat med dets Bugter og Fjorde, haves til Salgs eller udbydes, sælges eller bringes fra Sted til andet, men skulle, naar de ved Fiskeri tages op i Fartøj eller paa Land, snarest og saavidt mulig i uskadt Tilstand atter udsættes i Havet.

For Øresund gælder de samme Bestemmelser; dog er det tilladt udenfor det til Byerne — paa dansk Side Helsingør og København, paa svensk Side Helsingborg, Landskrona og Malmøhørende Vand- og Landomraade at holde ombord og ilandbringe Rødspætter, fangede i Sundet, som have en Totallængde af mindst 21 Centimeter (8 Tommer) (17 Centimeter [6$^1/_2$ Tomme] fra Snudespids til Halerod) til Forbrug i de Øresunds Kyster nærmest liggende Kommuner.

Art. III.

Denne Deklaration træder i Kraft 1ste November 1907.

Vid Bornholms och Kristiansös kuster samt vid svenska kusten från Falsterbo till Simbrishamn skall sillfisket med drifgarn vara gemensamt för båda ländernas undersåtar från den 1 maj till den 31 augusti.

Strand- och fiskrättsägare förbehållas de särskilda rättigheter, som dem jämlikt hvartdera landets lagar och författningar kunna tillkomma.

Art. II.

Rödspätta, som i totallängd icke håller 25$^1/_2$ centimeter (21 centimeter från nosspetsen till stjärtroten), må ej finnas ombord i fartyg eller båt, som befinner sig i Kattegatt med dess vikar och fjordar på fiske eller för fiskhandel, och ej heller vid kusterna af Kattegatt med dess vikar och fjordar föras i land, hållas till salu eller utbjudas, säljas eller från ort till annan forslas, utan skall sådan rödspätta, därest den varder vid fiske upptagen i farkost eller på land snarast och såvidt möjligt i oskadadt tillstånd i hafvet åter utsläppas.

För Öresund gälla samma bestämmelser, doch må, med undantag för det till städerna — å danska sidan Helsingör och Köpenhamn, å svenska sidan Helsingborg, Landskrona och Malmö — hörande vatten — och landområde, i sundet fångad rödspätta, som i totallängd håller minst 21 centimeter (17 centimeter från nosspetsen till stjärtroten) finnas ombord och föras i land för att förbrukas inom någon af de Öresunds kuster närmast belägna kommuner.

Art. III.

Denna deklaration träder i kraft den 1 november 1907.

Til Bekræftelse heraf have de Undertegnede underskrevet denne Overenskomst og forsynet den med deres Segl.

Sket i to Exemplarer i Stockholm den 5 Oktober 1907.

Till bekräftelse häraf hafva undertecknade underskrifvit denna öfverenskommelse och försett densamma med sina sigill.

Som skedde i Stockholm i två exemplar den 5 oktober 1907.

Hans Majestæt Kongen af Danmarks Envoyé Extraordinaire og Ministre Plénipotentiaire:

(L. S.) (undert.) *W. Sponneck.*

Hans Majestät Konungens af Sverige Statsminister och t. f. Minister för Utrikes Ärendena.

(L. S.) (undert.) *Arvid Lindman.*

102.

SUÈDE ET NORVÈGE, ITALIE.

Protocole sur la procédure à suivre lors de la collation de décorations aux sujets des pays respectifs; signé à Rome, le 15 mai 1901.

Sandgren, Recueil des Traités de la Suède (1910), p. 847.

Les Soussignés dûment autorisés à cet effet, prennent au nom de leurs Gouvernements respectifs l'engagement suivant:

Lorsque Sa Majesté le Roi de Suède et de Norvège voudra conférer une décoration, un titre ou une autre distinction honorifique quelconque à un sujet de Sa Majesté le Roi d'Italie, la Légation des Royaumes-Unis à Rome sera chargée préalablement de s'enquérir auprès du Ministère Royal des Affaires Etrangères si la faveur en question ne rencontre pas d'objection de la part de Sa Majesté le Roi d'Italie.

De même, lorsque Sa Majesté le Roi d'Italie voudra conférer une décoration, un titre ou une distinction honorifique quelconque à un sujet de Sa Majesté le Roi de Suède et de Norvège, la Légation d'Italie à Stockholm sera chargée préalablement de s'enquérir auprès du Ministère Royal des Affaires Etrangères si la faveur en question ne rencontre pas d'objection de la part de Sa Majesté le Roi de Suède et de Norvège.

Il sera tenu compte de part et d'autre des objections auxquelles les demandes auront pu donner lieu.

Sont exemptées des effets du présent engagement:

1. Les décorations et autres distinctions conférées *moto proprio* du Souverain;

2. Les décorations conférées à l'occasion de visites des Augustes Souverains;

3. Les décorations conférées au personnel des Légations respectives des Royaumes Unis à Rome et de l'Italie à Stockholm; et

4. Les décorations conférées à des officiers de l'une des puissances, assistant d'ordre de leur Souverain aux manoeuvres et exercices de l'armée ou de la flotte de l'autre.

En foi de quoi le présent protocole a été signé.

Fait à Rome en double expédition le 15 mai 1901.

Giulio Prinetti
C. Bildt.

103.

SUÈDE, ITALIE.

Echange de notes concernant la communication réciproque des actes d'état civil; du 26 février au 14 septembre 1904.

Sandgren, Recueil des Traités de la Suède (1910), p. 848.

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a.

Rome le 26 février 1904.

Monsieur le Ministre,

Par une ordonnance Royale du 6 août 1894 il a été arrêté, par rapport aux sujets et citoyens étrangers qui séjournent ou sont domiciliés en Suède, que les pasteurs des paroisses de l'église luthérienne ou bien les préposés des autres communautés religieuses sont tenus à envoyer au Bureau Central de Statistique à Stockholm, aussitôt que possible et indépendamment des extraits des registres paroissiaux qui devront être communiqués annuellement, des certificats de naissance, de mariage (religieux ou civil) et de décès, ainsi que des certificats constatant les relevailles d'une femme mariée ou fiancée, et enfin des certificats de reconnaissance d'enfants naturels; lorsqu'il s'agit de décès le certificat devra être muni, en tant qu'il y a lieu, de renseignements sur la succession du défunt, le nom, la profession et le domicile de ses parents et sur les héritiers, que le défunt aura laissés dans le Royaume.

Il a en outre été prescrit, par une décision Royale en date du 4 décembre dernier, que les certificats mentionnés plus haut concernant des

sujets étrangers, seront, à fur et à mesure qu'ils parviendront au bureau central de statistique, remis par cette autorité sans retard directement aux consulats des pays respectifs à Stockholm, mais lorsqu'il s'agit d'un certificat concernant le ressortissant d'un Etat, qui n'a pas de consulat dans cette ville, au ministère des affaires étrangères pour être communiqués au Gouvernement de l'Etat en question.

En portant ce qui précède à la connaissance de Votre Excellence j'ai l'honneur, selon les ordres que j'ai reçus, de La prier de vouloir bien me faire savoir si le Gouvernement Italien est disposé de son côté à prendre, à titre de réciprocité, des mesures correspondantes afin d'assurer, d'une manière efficace, la communication régulière d'expéditions des actes d'état civil dressés sur le territoire italien et concernant les sujets des Royaumes-Unis.

Je profite de l'occasion pour renouveler à Votre Excellence les assurances de ma très haute considération.

v. Ditten.

S. Exc. Monsieur Tittoni,
Ministre des Affaires Etrangères.

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b.

Rome le 9 maggio 1904.

Monsieur le Ministre.

Par Votre note du 26 février dernier, Vous avez bien voulu porter à ma connaissance que, d'après les ordonnances royales du 6 août 1894 et du 4 décembre 1903, le bureau central de statistique à Stockholm est chargé de remettre au Consulats étrangers dans la même ville, copie des certificats de naissance, de mariage (religieux ou civil), et de décès, concernant les ressortissants respectifs qui séjournent, ou sont domiciliés, en Suède, ainsi que des certificats constatant les relevailles d'une femme mariée ou fiancée, et enfin des certificats de reconnaissance d'enfants naturels.

En prenant acte de cette communication, et d'après l'avis de mon Collègue, M. le Garde des Sceaux, j'ai l'honneur de Vous déclarer que le Gouvernement du Roi est disposé, en principe, à prendre, à titre de réciprocité, des mesures analogues, pour l'échange des actes de naissance, de mariage et de décès concernant les sujets suédois, séjournants en Italie, quand ces actes sont délivrés par les autorités municipales, les seules qui, d'après nos lois et règlements, sont compétentes en matière d'état civil.

Il serait toutefois désirable, que les actes dont il s'agit concernant les sujets italiens, nés, mariés ou morts dans le Royaume-Uni, soient remis, tous les six mois, à la Légation royale à Stockholm, tandis que les mêmes actes concernant les sujets suédois, nés, mariés ou morts en Italie, seraient envoyés tous les six mois, par l'entremise du Ministère royal des affaires étrangères, à la Légation royale de Suède et Norvège, à Rome.

En attendant qu'il Vous plaise de me faire connaître la décision de Votre gouvernement, pour ce qui concerne cet arrangement, je saisis l'occasion de Vous renouveler, Monsieur le Ministre, l'assurance de ma haute considération.

Tittoni.

Monsieur T. de Ditten,
Ministre de Suède et Norvège.

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c.

Rome le 18 juin 1904.

Monsieur le Ministre.

En réponse à la lettre que Votre Excellence a bien voulu m'adresser en date du 9 mai dernier au sujet d'une transmission réciproque d'actes d'état civil j'ai l'honneur de Lui faire savoir que, l'ordonnance suédoise prescrivant expressement la transmission aux consulats étrangers des actes, le Gouvernement suédois ne saurait, à son regret, donner suite à la demande du Gouvernement Italien de faire remettre ces actes à la Légation italienne pour ce qui concerne les sujets italiens. Le Gouvernement Suédois suggère pourtant que ce petit détail pourrait être réglé par des instructions au Consulat Général et à la Légation d'Italie à Stockholm.

D'autre part il n'y a aucune objection à ce que les actes d'état civil concernant sujets suédois en Italie soient remis à la Légation des Royaumes Unis à Rome.

Je profite de l'occasion pour renouveler à Votre Excellence les assurances de ma très haute considération.

v. Ditten.

S. Exc. M. Tittoni,
Ministre des Affaires Etrangères.

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d.

Rome, 14 septembre 1904.

Monsieur le Ministre,

Me référant à la note en date du 18 juin dernier, j'ai l'honneur de Vous informer que d'après l'avis favorable qui m'a été exprimé par M. le Garde des Sceaux je viens de donner à Mr. le Consul Général de Sa Majesté à Stockholm les instructions nécessaires, afin qu'il ait soin de transmettre directement à ce Département Royal tout acte d'état civil concernant des sujets italiens, qu'il recevra du Bureau Central de Statistique local.

Pour ce qui concerne ces mêmes actes concernant des sujets suédois en Italie, ce Ministère Royal continuera à les envoyer à la Légation des Royaumes Unis à Rome.

Veuillez agréer, Monsieur le Ministre, les nouvelles assurances de ma haute considération.

Le Sous Secrétaire d'Etat.
G. Fusinati.

Monsieur von Ditten,
Ministre de Suède et Norvège.

104.

SUÈDE ET NORVÈGE, GRÈCE.

Echange de notes pour régler les relations diplomatiques; des 26 mars et 26/13 septembre 1903.

Sandgren, Recueil des Traités de la Suède (1910), p. 816.

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a.

Vienne le 26 mars 1903.

Monsieur le Ministre,

Depuis la suppression de la Légation du Roi à Athènes les communications officielles échangées entre les Gouvernements des Royaumes Unis et le Gouvernement Royal Hellénique ont eu lieu par l'entremise des Légations respectives à Constantinople.

Mon Gouvernement désirerait qu'elles puissent être transmises dorénavant par voie de cette Légation et de la Légation Royale Hellénique à Vienne.

Conformément aux instructions qui m'ont été transmises à ce sujet je viens recourir à l'intermédiaire obligeant de Votre Excellence afin de soumettre cette proposition à l'approbation de Votre Gouvernement et je saisis avec empressement l'occasion etc.

G. Lewenhaupt.

A Son Exc. Monsieur Manos
E. E. & M. P. de Sa M. Hellénique.

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b.

Vienne le 13/26 sept. 1903.

Monsieur le Chargé d'Affaires,

Je n'ai pas manqué de faire parvenir, en son temps, à mon Gouvernement la proposition contenue dans la note que S. E. Monsieur le Comte Lewenhaupt a bien voulu m'adresser en date du 26 mars a. c.

Ainsi que j'ai déjà eu l'honneur de Vous informer verbalement, le Gouvernement Rl. Hellénique consent, volontiers à ce que les communications officielles échangées entre les Gouvernements de Grèce et des Royaumes Unis de Suède et Norvège soient transmises dorénavant par voie des Légations respectives à Vienne.

Veuillez agréer, etc.

G. Manos.

Monsieur B. d'Anker.
Ch. d'Aff. de Suède et Norvège.

105.

SUÈDE ET NORVÈGE, GRÈCE.

Echange de notes concernant la communication réciproque des actes d'état civil; des 3 mars et $\frac{25 \text{ avril}}{8 \text{ mai}}$ 1904.

Sandgren, Recueil des Traités de la Suède (1910), p. 817.

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a.

Vienne, le 3 mars 1904.

Monsieur le Ministre et cher collègue,

Par une ordonnance royale du 6 août 1894, il a été arrêté, par rapport aux sujets et citoyens étrangers qui séjournent ou sont domiciliés en Suède, que les pasteurs des paroisses de l'église luthérienne ou bien les directeurs des autres communautés religieuses sont tenus d'envoyer au Bureau Central de Statistique, aussitôt que possible, et indépendamment des extraits des registres paroissiaux qui doivent être communiqués annuellement, les certificats de naissance, de mariage (religieux ou civil) et de décès, ainsi que les certificats constatant les relevailles d'une femme mariée ou fiancée et enfin les certificats de reconnaissance d'enfants naturels. Lorsqu'il s'agit de décès, le certificat devra être muni, en tant qu'il y a lieu, de renseignements sur la succession du défunt, le nom, la profession

et le domicile de ses père et mère et sur les héritiers que le défunt aura pu laisser dans le royaume.

En outre, par une décision royale en date du 4 décembre dernier, il a été prescrit qu'au fur et à mesure que les certificats mentionnés plus haut parviendront au Bureau Central de Statistique, ils devront être remis, par ses soins et sans retard, directement aux consulats des pays respectifs à Stockholm, ou bien, lorsqu'il s'agit d'un certificat concernant un ressortissant d'un Etat qui n'a pas de consulat dans cette ville, au Ministère royal des affaires étrangères, pour être communiqués au Gouvernement de l'Etat en question.

En portant ce qui précède à la connaissance de Votre Excellence, je suis chargé de demander si le Gouvernement de Sa Majesté Hellénique est disposé, à titre de réciprocité, à prendre des mesures analogues afin d'assurer d'une manière efficace la communication régulière d'expéditions des actes de l'état civil dressés sur le territoire grec et concernant les sujets des Royaumes-Unis.

Veuillez agréer etc.

G. Lewenhaupt.

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b.

Vienne, le 25 avril /8 mai 1904.

Monsieur le Ministre et cher collègue,

Je n'ai pas manqué de porter à la connaissance de mon Gouvernement le contenu de la note que Votre Excellence a bien voulu m'adresser en date du 3 mars a. c.

En réponse, le Gouvernement Royal me charge de communiquer à Votre Excellence qu'en Grèce le seul acte civil obligatoire, par rapport aux sujets étrangers, est celui dressé en cas de décès. Le Gouvernement Royal donnera l'ordre, afin que tout certificat de décès, concernant un sujet suédois ou norvégien, et tout autre acte civil, dressé sur la demande d'un sujet des Royaumes-Unis, soit remis sans retard aux autorités consulaires de Suède et Norvège.

Veuillez agréer etc.

Manos.

106.

SUÈDE, SUISSE.

Echange de notes concernant la communication réciproque des actes d'état civil; des 16 mars 1904 et 11 janvier 1905.

Sandgren, Recueil des Traités de la Suède (1910), p. 1020.

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a.

Berlin le 16 mars 1904.

Monsieur le Ministre,

Par une ordonnance Royale du 6 août 1894 il a été arrêté, par rapport aux sujets et citoyens étrangers qui séjournent ou sont domiciliés en Suède, que les pasteurs des paroisses de l'église luthérienne ou bien les directeurs des autres communautés religieuses sont tenus à envoyer au Bureau Central de Statistique, aussitôt que possible et indépendamment des extraits des registres paroissiaux qui devront être communiqués annuellement, des certificats de naissance, de mariage (religieux ou civil) et de décès, ainsi que des certificats constatant les relevailles d'une femme mariée ou fiancée et enfin des certificats de reconnaissance d'enfants naturels; lorsqu'il s'agit de décès, le certificat devra être muni, en tant qu'il y a lieu, de renseignements sur la succession du défunt, le nom, la profession et le domicile de ses parents et sur les héritiers que le défunt aura laissés dans le Royaume.

Il a en outre été prescrit, par une décision Royale en date du 4 Décembre dernier, que les certificats mentionnés plus haut et concernant des sujets étrangers, seront à mesure qu'ils parviendront au Bureau Central de Statistique remis par ses soins et sans retard directement aux consulats des pays respectifs à Stockholm, mais lorsqu'il s'agit d'un certificat concernant le ressortissant d'un Etat qui n'a pas de consulat dans cette ville, au ministère des affaires étrangères pour être communiqués au gouvernement de l'Etat en question.

Ayant été chargé par mon Gouvernement de porter ce qui précède à la connaissance du Gouvernement Suisse en lui demandant de vouloir bien me faire savoir s'il est disposé de son côté à titre de réciprocité à prendre des mesures correspondantes afin d'assurer, d'une manière efficace, la communication régulière d'expéditions des actes d'état civil dressés sur le territoire suisse et concernant les sujets des Royaumes-Unis, je me permets de recourir à cet effet à l'intermédiaire obligeant de Votre Excellence.

Veuillez agréer, Monsieur le Ministre, les assurances renouvelées de ma haute considération.

Taube.

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b.

Berlin le 11 Janvier 1905.

Monsieur le Comte,

Ma Légation n'a pas manqué de faire part au Conseil Fédéral Suisse de l'obligeante Note de Votre Excellence du 16 mars dernier, concernant la proposition du Gouvernement Royal de Suède d'échanger régulièrement à l'avenir les actes d'Etat civil dressés sur les territoires respectifs et se rapportant à l'autre partie. Ces actes d'Etat civil, d'après l'obligeante note précitée, seraient „les certificats de naissance, de mariage (religieux et civil) et de décès ainsi que les certificats constatant les relevailles d'une femme mariée ou fiancée et enfin les certificats de reconnaissance d'enfants naturels. Lorsqu'il s'agit de décès survenus en Suède, est-il ajouté dans la note précitée, le certificat devra être muni, en tant qu'il y a lieu, de renseignements sur la succession du défunt, le nom, la profession et le domicile de ses parents et sur les héritiers que le défunt aura laissés dans le Royaume".

J'ai aussi porté à la connaissance de mon Gouvernement le contenu de la note de Votre Excellence du 6 décembre dernier, suivant laquelle le Gouvernement Royal ne peut s'engager qu'à transmettre les actes d'Etat civil dressés en Suède attendu qu'en Norvège des dispositions analogues à celles qui existent en Suède n'ont pas encore été prises.

Me conformant aux ordres que m'a fait parvenir mon Gouvernement, j'ai l'honneur de faire part à Votre Excellence que le Conseil Fédéral Suisse prend volontiers acte de la proposition du Gouvernement Royal de Suède, telle qu'elle a été formulée dans la note du 16 mars 1904 et qu'il est bien disposé à accorder la réciprocité que demande le Gouvernement Royal de Suède dans les limites que lui trace la législation en vigueur. A cet effet, et dès que l'accord réciproque aura été constaté, le Conseil Fédéral Suisse prendra toutes les mesures nécessaires, pour qu'à l'avenir et en vertu du principe de la réciprocité, des extraits de toutes les inscriptions dans les registres de l'Etat civil suisse concernant les naissances, les décès, les mariages, la légitimation et la reconnaissance d'enfants naturels de nationalité suédoise, autrement dit de tous les actes d'Etat civil dressés en Suisse et concernant des ressortissants du Royaume de Suède soient transmis sans délai ni frais au Gouvernement Royal de Suède.

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Le Conseil Fédéral Suisse m'a aussi chargé de faire part à Votre Excellence, pour ce qui concerne l'échange réciproque des actes de décès, que de la part de la Suisse aucune communication ne pourrait être faite concernant les successions des défunts, les noms, la profession, le domicile de leurs parents et de leurs héritiers, attendu que des indications de cette nature ne sont pas consignées dans les régistres d'Etat civil suisses et ne peuvent par conséquent pas figurer dans les extraits qui en sont faits.

En Vous priant, Monsieur le Comte, de porter ce qui précède à la connaissance du Gouvernement Royal de Suède je saisis etc.

Alfred v. Claparède.

107.

SUÈDE ET NORVÈGE, PAYS-BAS.

Echange de notes concernant la communication réciproque des actes d'état civil; des 4 février et 5 mai 1905.

Sandgren, Recueil des Traités de la Suède (1910), p. 940.

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a.

La Haye le 4 février 1905.

Monsieur le ministre.

Par ordonnance Royale du 6 août 1894 il a été arrêté, par rapport aux sujets et citoyens étrangers qui séjournent ou sont domiciliés en Suède, que les pasteurs des paroisses de l'église luthérienne ou bien les directeurs des autres communautés religieuses sont tenus à envoyer au Bureau Central de Statistique, aussitôt que possible et indépendamment des extraits des registres paroissiaux qui devront être communiqués annuellement, des certificats de naissance, de mariage (religieux ou civil), et de décès, ainsi que des certificats constatant les relevailles d'une femme mariée ou fiancée et enfin des certificats de reconnaissance d'enfants naturels; lorsqu'il s'agit de décès, le certificat devra être muni, en tant qu'il y a lieu, de renseignements sur la succession du défunt, le nom, la profession et le domicile de ses parents et sur les héritiers que le défunt aura laissés dans le Royaume.

Il a en outre été prescrit, par décision Royale du 4 décembre 1903, que les certificats mentionnés plus haut et concernant des sujets étrangers, seront à mesure qu'ils parviendront au bureau central de statistique remis par ses soins et sans retard directement aux consulats des pays respectifs à Stockholm, mais lorsqu'il s'agit d'un certificat concernant le ressortissant d'un Etat qui n'a pas de consulats dans cette ville, au Ministère des Affaires Etrangères pour être communiqué au Gouvernement de l'Etat en question.

J'ai l'honneur, d'ordre de mon Gouvernement, de porter ce qui précède à la connaissance de Votre Excellence et de demander en même temps si le Gouvernement Néerlandais est disposé de son côté à titre de réciprocité à prendre des mesures correspondantes afin d'assurer, d'une manière

efficace, la communication régulière d'expéditions des actes d'état civil dressés sur le territoire néerlandais et concernant les sujets des Royaumes-Unis.

Veuillez agréer etc.

Strömfelt.

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b.

La Haye le 5 mai 1905.

Monsieur le comte.

Par Votre Office du 4 février dr. Vous avez bien voulu communiquer au Baron Melvil de Lynden les mesures légales que la Suède a prises pour faire parvenir régulièrement aux Gouvernements concernés des expéditions des actes d'état civil dressés sur le territoire suédois à l'égard d'étrangers.

Vous avez demandé en même temps si le Gouvernement de la Reine serait disposé à assurer de son côté une communication analogue se rapportant aux sujets des Royaumes-Unis.

En réponse j'ai l'honneur de porter à Votre connaissance que le Ministre de l'intérieur a adressé une circulaire aux commissaires de la Reine dans les Provinces en vertu de laquelle les autorités communales seront invitées à transmettre aux dits commissaires des expéditions des actes de naissance, de reconnaissance d'un enfant naturel et de mariage chaque fois qu'un tel acte sera dressé par l'officier de l'état civil dans une commune Néerlandaise par rapport à un sujet des Royaumes-Unis.

Ces documents me seront envoyés par les commissaires de la Reine et je ne manquerai pas de les transmettre à Votre Légation.

C'est donc en somme le même procédé qui est déjà en vigueur depuis un certain nombre d'années pour ce qui concerne la communication d'expéditions des actes de décès des sujets des Royaumes-Unis.

Veuillez agréer, etc.

W. van Weede.

108.

SUÈDE ET NORVÈGE, CONGO.

Echange de notes concernant la communication réciproque des actes d'état civil; des 15 février et 20 mars 1905.

Sandgren, Recueil des Traités de la Suède (1910), p. 575.

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a.

Bruxelles le 15 février 1905.

Monsieur,

Par ordonnance Royale du 6 août 1894 il a été arrêté, par rapport aux sujets et citoyens étrangers qui séjournent ou sont domiciliés en Suède, que les pasteurs des paroisses de l'église luthérienne ou bien les

directeurs des autres communautés réligieuses sont tenus à envoyer au Bureau Central de Statistique, aussitôt que possible et indépendamment des extraits des registres paroissiaux qui devront être communiqués annuellement, des certificats de naissance, de mariage, (religieux ou civil) et de décès, ainsi que des certificats constatant les relevailles d'une femme mariée ou fiancée et enfin des certificats de reconnaissance d'enfants naturels; lorsqu'il s'agit de décès, le certificat devra être muni, en tant qu'il y a lieu, des renseignements sur la succession du défunt, le nom, la profession et le domicile de ses parents et sur les héritiers que le défunt aura laissé dans le Royaume.

Il a en outre été prescrit, par décision Royale, du 4 décembre 1903, que les certificats mentionnés plus haut et concernant des sujets étrangers, seront à mesure qu'ils parviendront au bureau central de statistique remis par ses soins et sans retard directement aux consulats des pays respectifs à Stockholm, mais lorsqu'il s'agit d'un certificat concernant le ressortissant d'un Etat qui n'a pas de consulat dans cette ville, au ministère des affaires étrangères pour être communiqué au Gouvernement de l'Etat en question.

J'ai l'honneur, d'ordre de mon Gouvernement, de porter ce qui précède à Votre connaissance et de demander en même temps si le Gouvernement de l'Etat Indépendant du Congo est disposé de son côté à titre de réciprocité à prendre des mesures correspondantes afin d'assurer, d'une manière efficace, la communication régulière d'expéditions des actes d'état civil dressés sur le territoire de l'Etat Indépendant du Congo et concernant les sujets des Royaumes-Unis.

Veuillez agréer etc.

Strömfelt.

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b.

Bruxelles le 20 mars 1905.

J'ai eu l'honneur de recevoir votre lettre en date du 15 février dernier, relative à la transmission d'actes d'état civil concernant les sujets des Royaumes-Unis résidant au Congo, et les sujets congolais résidant en Suède et Norvège, et m'empresse de vous faire savoir que le Gouvernement de l'Etat Indépendant du Congo communiquera régulièrement à la Légation de Suède et Norvège à Bruxelles toute expédition d'actes de l'état civil dressés sur le territoire de l'Etat et intéressant des sujets suédois ou norvégiens.

Si les autorités des Royaumes-Unis étaient appelées à dresser éventuellement des actes de l'état civil relatifs à des sujets congolais résidant en Suède ou en Norvège, il serait agréable au Gouvernement de l'Etat Indépendant du Congo de recevoir directement, à titre de réciprocité, des copies de ces documents.

Veuillez agréer etc.

Le Secrétaire Général
Ch. de Cuvelier.

109.

BELGIQUE, FRANCE.

Convention modifiant la délimitation de la frontière belge-française; signée à Paris, le 12 avril 1905.*)

Moniteur belge 1906. No. 26.

Convention modifiant la délimitation de la frontière belge-française entre Chimay (les Rièzes) et Neuvilleaux-Tourneurs.

Sa Majesté le Roi des Belges et le Président de la République Française, ayant reconnu l'utilité d'une vérification de la frontière belge-française décrite dans l'article 40 du „procès-verbal de la délimitation entre les royaumes des Pays-Bas et de France, comprenant la partie entre la Sambre et la Meuse ou la quatrième Section" annexé au traité de limites signé à Courtrai, le 28 mars 1820,**) et ayant fait procéder aux études préliminaires, ont résolu de consacrer par une Convention les résultats de ces travaux. A cet effet, Ils ont nommé pour Leurs Plénipotentiaires, savoir:

Sa Majesté le Roi des Belges:

M. A. Leghait, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près le Président de la République Française, et

Le Président de la République Française:

M. Th. Delcassé, Député, Ministre des Affaires étrangères;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit:

Article premier.

Sont approuvés:

1⁰ Le rapport de la Commission internationale chargée de la rectification de la frontière franco-belge, le long du ruisseau „Le Ry de France" séparant les communes de Rièzes (les) (Belgique) et de Neuville-aux-Tourneurs (France), signé à Hirson (France) le 9 décembre 1904;***)

2⁰ Le plan joint au dit rapport du 9 décembre 1904, à l'échelle du 1/1000;***)

3⁰ Les cessions réciproques de territoire telles qu'elles ont été arrêtées de commun accord par les délégués des deux pays dans le rapport précité.

Art. 2.

La présente Convention sera soumise à l'approbation des pouvoirs législatifs des deux pays; elle sera ratifiée et les ratifications seront échangées à Paris, aussitôt que faire se pourra.

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*) Les ratifications ont été échangées à Paris, le 10 janvier 1906.
) V. N. S. I, p. 587. *) Non reproduit.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait à Paris, en double exemplaire, le 12 avril 1905.

(L. S.) *A. Leghait.*
(L. S.) *Delcassé.*

110.

SUÈDE ET NORVÈGE, FRANCE.

Echange de notes concernant la protection des sujets suédois et norvégiens établis en Perse; des 26 avril et 1 mai 1905.

Sandgren, Recueil des Traites de la Suède (1910), p. 750.

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a.

Paris le 26 avril 1905.

Monsieur le Ministre.

En l'absence de représentation diplomatique à lui en Perse, le Gouvernement du Roi a été très heureux de voir continuer la très vieille tradition de la protection de ses ressortissants par la Légation de France à Téhéran. Or il semblerait que la création récente dans cette ville d'un Consulat Général de Suède et Norvège aurait occasionné quelques doutes au sujet de la dite protection, dont, à ce qu'il paraît, un seul sujet du Roi profite en ce moment.

A l'effet de lever ces doutes, M. le Comte de Gyldenstolpe vient de m'autoriser à déclarer que l'établissement du Consulat en question ayant plutôt un but mercantile, le Gouvernement du Roi verrait avec plaisir la continuation de la tradition qui attache à la Légation de France à Téhéran la protection diplomatique des sujets suédois et norvégiens en Perse.

En faisant cette communication, je prie Votre Excellence de vouloir bien me faire savoir si Elle agrée la manière de voir du Gouvernement du Roi, et en ce cas d'en informer aussi la Légation de la République à Téhéran.

Veuillez agréer les assurances renouvelées de la haute considération avec laquelle j'ai l'honneur d'être, etc.

Åkerman.

S. Exc. M. Delcassé,
Ministre des Affaires Etrangères.

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b.

Paris, le 1[er] mai 1905.

Monsieur le Ministre.

Pour répondre au désir du Gouvernement Royal de Suède et de Norvège, dont Vous avèz bien voulu me faire part sous la date du 26 avril, je prescris à la Légation de France en Perse de continuer à assurer dans ce pays la protection diplomatique des sujets suédois et norvégiens.

Je suis heureux de Vous donner à cette occasion l'assurance que vos compatriotes trouveront toujours auprès du représentant du gouvernement de la République à Téhéran le plus sympathique accueil.

Agréez les assurances de la haute considération avec laquelle j'ai l'honneur d'être etc.

Delcassé.

Monsieur Åkerman,
Ministre de Suède et Norvège à Paris.

111.

SUÈDE ET NORVÈGE, FRANCE.

Echange de notes pour ajouter la tentative de vol avec effraction aux actes criminels passibles d'extradition; des 24 mai et 10 juillet 1905.

Sandgren, Recueil des Traités de la Suède (1910), p. 751.

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a.

Paris le 24 mai 1905.

Monsieur le Ministre.

Conformément aux instructions reçues, j'ai l'honneur de faire connaître à Votre Excellence que les Gouvernements de Suède et de Norvège prennent, sous réserve de réciprocité et aux conditions générales stipulées dans le traité d'extradition conclu entre les Royaumes-Unis et la France le 4 juin 1869,*) l'engagement d'accorder dorénavant l'extradition en cas de tentative de vol avec effraction comme si ce crime était énuméré dans l'article 2 dudit traité.

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*) V. **N. R. G.** 3. s. V, p. 684

Je serai reconnaissant à Votre Excellence de vouloir bien me faire connaître si, de son côté, le Gouvernement Français est disposé à prendre le même engagement.

Veuillez agréer etc. *Åkerman.*

S. Exc. Monsieur Delcassé,
Ministre des Affaires Etrangères.

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b.

Paris, le 10 juillet 1905.

Monsieur le Chargé d'Affaires.

Le 24 Mai dernier, M. Åkerman avait bien voulu faire savoir à mon Département que les Gouvernements de Suède et Norvège prenaient, sous réserve de réciprocité et aux conditions générales stipulées dans le traité d'extradition du 4 juin 1869, l'engagement d'autoriser dorénavant l'extradition en cas de tentative de vol avec effraction, comme si ce crime était énuméré dans l'article 2 dudit traité.

M. le Ministre de la Justice, qui a été avisé de cet engagement, porte aujourd'hui à ma connaissance qu'il y accorde son adhésion, et qu'il demeure entendu que, dès à présent, la tentative de vol avec effraction donnera lieu à extradition, et à titre de réciprocité, dans les rapports entre les Royaumes-Unis et le Gouvernement de la République. J'ai l'honneur de vous en informer.

Agréez, etc. *Rouvier.*

Monsieur de Klercker,
Chargé d'Affaires de Suède et Norvège à Paris.

112.

BOLIVIE, CHILI.

Convention concernant la construction du chemin de fer de Arica à la Paz; signée à la Paz, le 27 juin 1905.*)

Anexos á la Memoria presentada al Congreso de 1905. La Paz 1905.

Convención para la construccion del Ferrocarril de Arica a La Paz.

Los Gobiernos de la República de Bolivia y de la República de Chile igualmente interesados en promover el desarrollo de las relaciones comerciales entre los dos países y en uso de la facultad que les concede

*) Comp. le Protocole du 26 mai 1908, ci-dessous No. 115.

el artículo 3º. del Tratado de Paz y Amistad ajustado entre ambos Gobiernos, el 20 de octubre de 1904,*) han acordado reglamentar la concesión, construcción y explotación del Ferrocarril de Arica al Alto de La Paz en conformidad á las bases que en seguida se indican, sin perjuicio de las demás que posteriormente acuerden y á este efecto han nombrado sus respectivos Plenipotenciarios á saber:

Su Excelencia el Presidente de la República de Bolivia al señor don Claudio Pinilla, Ministro de Relaciones Exteriores.

Su Excelencia el Presidente de Chile al señor don Beltran Mathieu, Enviado Extraordinario y Ministro Plenipotenciario de Bolivia.

Quienes debidamente autorizados al efecto, han acordado las estipulaciones contenidas en las cláusulas siguientes:

Artículo I.

Para el efecto de determinar la responsabilidad pecuniaria del Gobierno de Chile establecida en el artículo 3º. de dicho Tratado, se declara que el valor de construcción de la sección boliviana del ferrocarril será el que se indique en la propuesta que acepte el Gobierno de Chile para construir esa sección.

Artículo II.

El ferrocarril podrá construirse por secciones y los trabajos comenzarán simultáneamente en Arica y en Viacha, si no hubiere graves inconvenientes, y las secciones así construidas se irán entregando al tráfico á medida que se vayan terminando; y el plazo de los quince años, al cabo de los cuales la sección boliviana de este ferrocarril se pasará al dominio y propiedad de Bolivia, se contará desde el día en que quede habilitada y entregada al servicio toda la línea.

Artículo III.

Ambos Gobiernos darán por intermedio de sus funcionarios todas las facilidades necesarias para la más rápida y perfecta construcción del ferrocarril.

Artículo IV.

Los Gobiernos de Chile y de Bolivia cederán gratuitamente los terrenos fiscales que sean necesarios para la construcción de la vía y sus dependencias y el uso de las aguas que no pertenezcan ó á que no tengan derecho los particulares y que sean tambien necesarias para la construcción y explotación del ferrocarril.

Artículo V.

Se obligan asimismo á facilitar, en conformidad á las leyes de los respectivos países, la expropiación de los terrenos municipales y particulares que sean necesarios para el objeto antes indicado.

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*) V. N. R. G. 3. s. II, p. 174.

Darán igualmente facilidades y en la misma forma, para las ocupaciones temporales de terrenos y constitución de todas las servidumbres administrativas que sean necesarias para la construcción y explotación del ferrocarril, como cierros de fundos colindantes de la extensión que atraviesa la línea, extracción de materiales necesarios al ferrocarril, prohibición de ejecutar ciertos trabajos á menos de cierta distancia del camino, etc., etc.

Artículo VI.

No se impedirá, retardará ó dificultará ningún trabajo del ferrocarril ó sus accesorios á causa ó mientras duran los procedimientos necesarios para determinar el monto de la expropiación ó de las servidumbres.

Artículo VII.

Serán libres de todo impuesto fiscal ó municipal los materiales necesarios para la construcción y explotación del ferrocarril, así como los víveres que durante el tiempo de la construcción de la línea se introduzcan para la manutención de los trabajadores.

Artículo VIII.

La línea férrea, así como las propiedades muebles é inmuebles de su dependencia, quedarán exentos de toda contribución ordinaria y extraordinaria durante todo el tiempo que esté en poder del Gobierno de Chile.

Artículo IX.

Se trasportará gratuitamente por el ferrocarril la correspondencia national é internacional.

Artículo X.

El ferrocarril se obligará igualmente á trasportar, por el precio del costo, todo el material fijo y rodante que el Gobierno de Bolivia necesite para la construcción de las ferrovías que se trabajen en el interior del país por cuenta del expresado Gobierno.

Artículo XI.

Los trabajadores y empleados del ferrocarril y sus dependencias quedarán exentos del servicio militar en los respectivos países, salvo en caso de guerra nacional.

Artículo XII.

A fin de asegurar á perpetuidad el libre tráfico del ferrocarril, los respectivos gobiernos se comprometen á garantir la neutralidad del ferrocarril y sus dependencias.

Artículo XIII.

Es entendido que el ferrocarril en sus respectivas secciones queda sujeto á la autoridad y leyes de cada uno de los países signatarios en su respectivo territorio, pero con el propósito de facilitar el funcionamiento y seguridad de la línea, los Gobiernos de Chile y Bolivia adoptarán de

común acuerdo las disposiciones reglamentarias que están en uso en esta clase de líneas internacionales. En ellas se indicarán los objetos que por su gran valor ó por los peligros que acarrearía para la seguridad del tráfico, no puedan trasportarse sino bajo ciertas condiciones.

Estos acuerdos reglamentarios tendrán el mismo valor que las disposiciones de la presente Convención de la que se considerarán parte integrante.

En fé de lo cual los Plenipotenciarios arriba nombrados firmaron y sellaron con sus respectivos sellos y par duplicado la presente Convención, en la ciudad de La Paz, á los 27 días del mes de junio de mil novecientos cinco años.

(L. S.) *Claudio Pinilla.*
(L. S.) *B. Mathieu.*

La Paz.

113.

BOLIVIE, CHILI.

Protocole concernant la démarcation des frontières entre les deux pays; signé à la Paz, le 24 juillet 1905.

Anexos á la Memoria presentada al Congreso de 1905. La Paz 1905.

Protocolo para la demarcación de límites.

Los Gobiernos de la República de Bolivia y de la República de Chile, animados del común deseo de dar cumplimiento á lo estatuido en el Tratado celebrado por ambos Gobiernos, en 20 de octubre de 1904,*) con relación á la demarcación de los límites territoriales entre uno y otro país, han nombrado sus respectivos Plenipotenciarios á saber:

S. E. el Presidente de la República de Bolivia, al señor don Claudio Pinilla Ministro de Relaciones Exteriores y

S. E. el Presidente de la República de Chile, al señor don Beltrán Mathieu, Enviado Extraordinario y Ministro Plenipotenciario en Bolivia.

Quienes, debidamente autorizados al efecto, han acordado las estipulaciones contenidas en las cláusulas siguientes:

Artículo I.

La comisión de ingenieros que ha de demarcar el límite determinado en el Tratado de 20 de octubre de 1904, será compuesta por cada parte de un Director ó Comisario y de los ingenieros que se designe por cada

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*) V. N. R. G. 3. s. II, p. 174.

uno de los Gobiernos respectivos los que podrán ser acompañados del personal auxiliar necesario para sus trabajos.

Artículo II.

Los Directores de las comisiones deberán ponerse de acuerdo en el más breve plazo, respecto de la fecha en que sea conveniente iniciar los trabajos de amojonamiento, así como de los detalles acerca de la naturaleza y forma de las pirámides que deban emplearse, las secciones en que deberán dividirse los trabajos y de todo lo tendente á conseguir que el alinderamiento pueda ser efectuado en una sola temporada.

Artículo III.

Los Directores de las comisiones redactarán un pliego común de instrucciones, á las que deberán ajustar sus trabajos las comisiones encargadas de la demarcación.

Artículo IV.

Terminado el amojonamiento, cada una de las subcomisiones demarcadoras, levantará una acta en la que se dejará constancia de los hitos que se hayan colocado, la fecha de su erección, las coordenadas geográficas de los puntos y demás datos que fijen las instrucciones que les impartirán los Directores.

Artículo V.

Cualquiera dificultad que se suscite entre los demarcadores será comunicada á los Directores de las comisiones respectivas, sin perjuicio de continuar los trabajos de alinderamientos en aquellas partes en que haya acuerdo.

Artículo VI.

Los Directores de las comisiones tratarán de allanar amigablemente las dificultades de todo género que puedan presentarse, comunicando sus acuerdos á los Gobiernos respectivos para su conocimiento. Los centros poblados se dejarán dentro del territorio del país que hubiere ejercido soberanía en ellos. En caso de que no pudieren llegar á un avenimiento, las dificultades serán comunicadas también á los Gobiernos, para que avocándose el conocimiento de ellas, traten de solucionarlas, y en caso contrario para que sean sometidas al fallo de Su Majestad el Emperador de Alemania, designado como árbitro en el Tratado á que se hace referencia.

Artículo VII.

Siempre que quede vacante alguno de los puestos de Director ó Ingeniero encargado de la demarcación, el Gobierno respectivo deberá nombrar el reemplazante en el plazo de un mes.

Artículo VIII.

Los Gobiernos signatarios se comprometen á ordenar á las autoridades de la región sujeta á la demarcación, á que presten todo el auxilio necesario y no presenten inconvenientes de ninguna clase á las comisiones demarcadoras.

Artículo IX.

Los gastos de construcción, trasporte y colocación de las pirámides serán pagados por mitades por los dos Gobiernos.

En fe de lo cual los Plenipotenciarios arriba nombrados firmaron y sellaron con sus respectivos sellos y por duplicado el presente Protocolo, en la ciudad de La Paz, á los 24 días del mes de julio de mil novecientos cinco años.

(L. S.) *Claudio Pinilla.*
(L. S.) *B. Mathieu.*

114.

BOLIVIE, CHILI.

Accord afin d'interpréter l'article 8 du Traité de paix et d'amitié conclu le 20 octobre 1904;*) signé à la Paz, le 10 septembre 1905.

Anexos á la Memoria presentada al Congreso de 1905. La Paz 1905.

Acuerdo sobre exención de derechos aduaneros.

En La Paz, á los diez días del mes de setiembre de mil novecientos cinco, reunidos en el despacho del Ministerio de Relaciones Exteriores los señores don Claudio Pinilla, Ministro del ramo y don Beltrán Mathieu, Enviado Extraordinario y Ministro Plenipotenciario de Chile, teniendo presente que la diversa aplicación dada al artículo 8º. del Tratado de 20 de octubre último por los funcionarios de Aduana de uno y otro país, hace necesario un acuerdo, á fin de evitar esta dificultad originada al comercio, debidamente autorizados por sus respectivos Gobiernos, han convenido en lo siguiente:

En conformidad al Tratado de 20 de octubre de 1904, mientras el Gobierno de Bolivia realiza su propósito de cancelar las franquicias que actualmente gozan los productos peruanos, los artículos naturales y manufacturados de Chile que se importen á Bolivia y viceversa gozarán de la exención de derechos de aduana en uno y otro país.

En fe de lo cual los infrascritos firman el Presente Protocolo, en doble ejemplar, y lo sellan con sus sellos respectivos.

(L. S.) *Claudio Pinilla.*
(L. S.) *B. Mathieu.*

*) V. N. R. G. 3. s. II, p. 174.

115.

BOLIVIE, CHILI.

Protocole concernant les chemins de fer facilitant la communication entre les deux pays; signé à Santiago, le 26 mai 1908.*)

Archivo diplomático y consular II, No. 2 (1911). La Paz.

El día 26 de mayo de 1908, se reunieron en el Ministerio de Relaciones Exteriores de la República de Chile el señor Sabino Pinilla, Enviado Extraordinario y Ministro Plenipotenciario de Bolivia con la debida autorización, y el señor Federico Puga Borne, Ministro del ramo, debidamente autorizado por Su Excelencia el Presidente de la República.

El señor Ministro de Bolivia manifestó que el propósito de su Gobierno era colocar las diversas salidas del tráfico ferroviario de Bolivia en condiciones de perfecta igualdad y libre competencia, á fin de que cada zona del país pueda buscar para su comercio la vía natural que le corresponda según sus distancias.

El señor Ministro de Relaciones Exteriores, manifestó á su vez que el Gobierno de Chile deseaba simplificar la forma de pago de las garantías á que se refiere el artículo 3º. del Tratado de 20 octubre de 1904.**)

De conformidad á estas declaraciones convinieron los negocíadores en lo siguiente:

Artículo 1º. Las tarifas de fletes cuyo cobro autorice el Gobierno de Bolivia para los ferrocarriles á que se refiere el Tratado de Paz indicado y el contrato celebrado por el Gobierno de Bolivia con el National City Bank y los señores Speyer y Co., guardarán la misma relación en cada uno de ellos con el número de kilómetros recorridos y el costo permanente de explotación.

Artículo 2º. Con arreglo al principio de la Nación más favorecida, tanto la vigencia de las escalas graduales de dichas tarifas como cualesquiera rebajas especiales que pudieran hacerse, comprenderán también á los productos similares de Chile, ya sean naturales ó manufacturados, en las mismas conditiones y distancias en que rijan dichas reducciones.

Artículo 3º. Las estipulaciones del artículo precedente, se entenderán sin más excepción que la rebaja del diez por ciento (10%) acordada en el flete de los productos chilenos naturales ó manufactura dos, la que será concedida sobre cualquiera tarifa cuyo cobro autorice el Gobierno de Bolivia, ya sea de manera permanente ó transitoria, para todas las líneas á que se refiere el contrato con el National City Bank y Speyer y Co. y durante el plazo que más adelante se indica.

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*) Les ratifications ont été échangées à la Paz, le 22 septembre 1911. V. Anexos á la Memoria de 1911, p. 37.

**) V. N. R. G. 3. s. II, p. 176. — Comp. la Convention du 27 juin 1905, ci-dessus No. 112.

Se entenderá para este efecto por productos manufacturados chilenos todos los fabricados en Chile con materia prima chilena ó extranjera.

Artículo 4º. Esta misma rebaja del diez por ciento se concederá también á los productos naturales ó manufacturados de Chile en la sección boliviana del ferrocarril de Arica á La Paz en el caso de que esa sección se hubiese ya traspasado á Bolivia y siempre que el fondo de las garantías de que se trata, no estuviese agotado.

Artículo 5º. Sobre la base del cumplimiento de las precedentes di posiciones, el Gobierno de Chile se compromet á pagar al Gobierno de Bolivia ó á su Representante Diplomático en Santiago, en vez de la garantía ferroviaria establecida en el artículo 3º. del Tratado de 20 de octubre de 1904, las siguientes anualidades: 1ª. Veintidos mil quinientas libras esterlinas [£ 22,500] pagaderas el 30 de Setiembre de cada año después de terminada é integrada al tráfico la línea de Oruro á Viacha; 2ª. Otras veintidos mil quinientas libras esterlinas [£ 22,500] pagaderas el 1º. de Abril de cada año, después que se hallen entregados al tráfico doscientos cincuenta kilómetros más en los ferrocarriles ya referidos en conexión con el ferrocarril de Oruro á La Paz; y 3ª. Por último diez mil libras esterlinas [£ 10,000] más anuales una vez terminado el ramal que debe conectar la línea de Oruro Viacha con el ferrocarril de Arica La Paz en las vecindades del río Desaguadero, entendiéndose que es facultad del Gobierno de Bolivia el determinar la oportunidad de la construcción de dicho ramal.

Artículo 6º. Estas anualidades deberán pagarse hasta enterar sin interés el saldo que resultare del fondo de un millón setecientas mil libras esterlinas [£ 1.700,000] contemplado en el artículo 3º. inciso 4º. del Tratado de Paz de 20 de octubre de 1904, después de descontado el valor de la sección boliviana del ferrocarril de Arica á Bolivia. Hasta que se verifique el pago de la última de dichas anualidades, regirá el descuento del diez por ciento de fletes á favor de los productos chilenos de que habla el artículo 3º. del presente convenio.

Artículo 7º. Ambos Gobiernos celebrarán oportunamente acuerdos especiales para facilitar el pago del transporte internacional y el despacho aduanero ó de tránsito entre ambos países, así como para la distribución del producto bruto del tráfico internacional del ferrocarril de Arica en proporción al costo de explotación de cada sección una vez terminado el plazo de quince años de que habla el artículo 3º. del Tratado de Paz.

El presente Convenio será ratificado y las ratificaciones se canjearán en Santiago ó en La Paz en el más breve plazo posible.

En fé de lo cual, el Enviado Extraordinario y Ministro Plenipotenciario de Bolivia y el Ministro de Relaciones Exteriores de Chile firman en doble ejemplar este convenio y lo sellan con sus respectivos sellos.

(Firmado.) *Sabino Pinilla.*
(Firmado.) *F. Puga Borne.*

116.

ARGENTINE, PARAGUAY.

Convention concernant les frontières entre les deux pays; signée à Buenos Aires, le 11 septembre 1905, suivie d'une Convention additionnelle, signée à Buenos Aires, le 1er février 1907.

República Argentina. Tratados, Convenciones etc. Publicación oficial. IX(1912)p. 284.

En la Ciudad de Buenos Aires, á los once días del mes de septiembre de mil novecientos cinco, reunidos en el Despacho del Ministerio de Relaciones Exteriores y Culto de la República Argentina, S. E. el Dr. Don Carlos Rodríguez Larreta, Ministro del ramo y S. E. el Dr. D. José Z. Caminos, Enviado Extraordinario y Ministro Plenipotenciario del Paraguay, con el objeto de definir cuál sea el brazo ó canal principal del río Pilcomayo, que según el tratado de 3 de febrero de 1876 celebrado entre ambas repúblicas y el laudo arbitral de Mr. Rutheford B. Hayes, Presidente de los Estados Unidos de América, pronunciado el 12 de noviembre de 1878, es la *línea divisoria* de los dos países en la parte de los territorios del Chaco, han convenido en lo siguiente:

Artículo 1.⁰ El Gobierno de la República Argentina por una parte, y por la otra el Gobierno de la República del Paraguay, convienen en nombrar una comisión doble, compuesta de dos peritos por la primera y otros dos por la segunda, con el encargo de practicar los estudios necesarios en el río Pilcomayo á fin de determinar cuál es el brazo ó canal principal de dicho río según el tratado y laudo arbitral á que se ha hecho referencia.

Art. 2.⁰ Terminados los estudios y reconocimiento del río, cuyo resultado la comisión hará constar en un diario de navegación que llevará por duplicado, los presentarán los comisionados á sus respectivos gobiernos con un informe y un plano figurativo de dicho río dando cuenta de su cometido.

Art. 3.⁰ A la vista de este plano y los documentos mencionados en el artículo anterior, los gobiernos Argentino y Paraguayo, por medio de sus representantes, examinarán en la dicha Ciudad de Buenos Aires el asunto, para determinar el brazo del río Pilcomayo que deba considerarse como canal principal de acuerdo con el tratado de 1876 y el laudo arbitral ya mencionado.

Art. 4.⁰ Cada unó de los gobiernos contratantes abonará los gastos de sus delegados, y por mitades los comunes que la comisión hiciese en el desempeño de las funciones enumeradas en el artículo 2.⁰

En fe de lo cual los Plenipotenciarios de una y otra República, debidamente autorizados para este acto, firman y sellan en dos ejemplares el presente convenio en la Ciudad y fecha *ut supra.*

(L. S.) *C. Rodríguez Larreta* (hijo).
(L. S.) *José Z. Caminos.*

Convenio.

Reunidos en el despacho del Departamento de Relaciones Exteriores y Culto de la República Argentina, S. E. el Sr. Dr. D. Estanislao S. Zeballos, Ministro del ramo y S. E. el Sr. Dr. José Z. Caminos, Enviado Extraordinario y Ministro Plenipotenciario del Paraguay, con el objeto de cambiar ideas sobre la mejor forma de facilitar y acelerar los estudios que se verifican en el Río Pilcomayo para determinar cual es el brazo principal de dicho río, según el Tratado de 3 de febrero de 1876 y el laudo arbitral del Presidente de los Estados Unidos de América, pronunciado el 12 de noviembre de 1878, á que se refiere el Convenio subscripto en la Ciudad de Buenos Aires el 11 de septiembre de 1905.

Han acordado, debidamente autorizados por los Gobiernos que representan, lo siguiente:

Artículo 1.º Modificar el artículo 1.º del Convenio de 11 de septiembre de 1905 firmado en la Ciudad de Buenos Aires entre el Sr. Ministro Secretario de Relaciones Exteriores y Culto de la República Argentina Dr. D. Carlos Rodríguez Larreta y el Sr. Enviado Extraordinario y Ministro Plenipotenciario del Paraguay, Dr. D. José Z. Caminos, en el sentido de que la Comisión Mixta quede compuesta de un Perito por cada Parte Contratante, manteniéndose en vigor los demás artículos del Protocolo de 11 de septiembre de 1905.

En fe de lo cual, los Plenipotenciarios respectivos firman y sellan el presente Convenio, en doble ejemplar, en la Ciudad de Buenos Aires á 1.º de febrero del año 1907.

José Z. Caminos.
Estanislao S. Zeballos.

117.

ARGENTINE, PARAGUAY.

Convention concernant le commerce de bestiaux; signée à Buenos Aires, le 30 mai 1908.

República Argentina. Tratados, Convenciones etc. Publicación oficial. IX (1912) p. 288.

Reunidos en el Departamento del Ministerio de Relaciones Exteriores y Culto, Su Excelencia el Señor Ministro del ramo, Dr. Estanislao S. Zeballos y Su Excelencia el Sr. Enviado Extraordinario y Ministro Plenipotenciario del Paraguay, Dr. José Z. Caminos, debidamente autorizados al efecto, han convenido lo siguiente para regular el intercambio de ganado entre ambos países:

Artículo 1.⁰ Entre la República del Paraguay y la Argentina, en la extensión geográfica comprendida por el territorio de la primera sobre los ríos Paraguay y Pilcomayo y las gobernaciones de Formosa y Chaco de la segunda, el intercambio de ganado estará sujeto á las siguientes condiciones:

a) Serán puertos habilitados para recibir ganados procedentes de la República del Paraguay los de Pilcomayo, Bouvier, Formosa, Colonia Cano, Bermejo, Las Palmas y Barranqueras;

b) Serán puertos habilitados en la República del Paraguay para recibir ganados procedentes de la República Argentina, los de Asunción, Villeta, Oliva, Villa Franca Nueva, Villa del Pilar y Humaitá;

c) El tráfico de ganados por los puertos mencionados en los incisos anteriores, será permitido libremente sin otras restricciones que las fiscales y administrativas que establezcan los respectivos países, pero cualquiera de los dos gobiernos podrá en todo momento establecer una inspección veterinaria con el objeto de averiguar si es satisfactorio el estado de salud de los animales que se importan;

d) En cualquier momento en que se hubiera desarrollado una epizootia de las que según las leyes y reglamentos del respectivo país motiven medidas de policía sanitaria, podrá el gobierno establecer condiciones y aún prohibiciones en la misma forma que según sus leyes y reglamentos se establezcan para otro país cualquiera.

Art. 2.⁰ En la parte del Territorio de la República del Paraguay que por intermedio del Alto Paraná linda con la gobernación de Misiones de la República Argentina, el intercambio de ganado se efectuará por los puertos respectivos de Villa Encarnación y Posadas en las mismas condiciones que se han establecido para los puertos habilitados por el artículo anterior.

Art. 3.º En la parte del territorio de la República del Paraguay que linda con la provincia de Corrientes de la República Argentina el intercambio de ganados se efectuará de acuerdo con las siguientes condiciones:

a) Será puerto habilitado en la República Argentina para recibir ganados procedentes de la República del Paraguay; el de Corrientes y vice versa, serán puertos habilitados de la República del Paraguay para recibir ganados procedentes de la República Argentina los de Paso de la Patria y Yabebirí;

b) El ganado á que se refiere este artículo deberá venir provisto de certificado veterinario que compruebe que no existe ninguna epizootia, ni ha existido en los seis meses anteriores en el Departamento de donde proceden y tratándose de ganado vacuno, deberá atestiguarse, además, que han sido sometidos los animales á un baño garrapaticida con específico oficialmente declarado eficaz y encontrarse en el momento de ser importados efectivamente libres de garrapata;

c) Tratándose de ganado destinado á la cría ó invernada deberá, además ser inspeccionado en el puerto de importación si así lo desea el país interesado.

Art. 4.º Este Convenio deberá ser aprobado por el Poder Ejecutivo de los respectivos países, durará cinco años desde que se hubieren canjeado las ratificaciones y no podrá ser derogado sino con aviso previo de un año que una de las partes haga á la otra, salvo el caso en que una ley dictada por el H. Congreso de cualquiera de los dos países dispusiera lo contrario.

Firmado y sellado por duplicado en Buenos Aires, á los treinta días del mes de Mayo del año de 1908.

(L. S.) *E. S. Zeballos.*
(L. S.) *José Z. Caminos.*

Ministerio de Relaciones Exteriores y Culto.

Buenos Aires, septiembre 7 de 1908.

A S. S. Sr. D. Pedro Saguier, Encargado de Negocios del Paraguay.

Sr. Encargado de Negocios:

Cumplo en comunicar á S. S. para información de su Gobierno, que el Excmo. Sr. Presidente de la República prestó, con fecha 10 de junio último, su aprobación al Convenio sobre intercambio de ganado entre nuestros respectivos países, firmado en esta capital, el 30 de mayo próximo pasado con cuyo requisito puede ponerlo en vigencia el Gobierno Argentino sin necesidad de sanción legislativa.

Con este motivo, desearía saber si el Gobierno que S. S. representa dignamente ha prestado su aprobación al Convenio y si estaría en condiciones de darle ejecución.

Para este caso, podría desde luego fijarse por notas que se cambiarían al efecto, la fecha en que ambos gobiernos deban poner en ejecución el Convenio y servir esas comunicaciones como acto de ratificación en cumplimiento de lo estatuído en su artículo 4.°

Saludo á S. S. con las seguridades de mi consideración distinguida.

V. de la Plaza.

Legación del Paraguay en la República Argentina.

Buenos Aires, 2 de noviembre de 1908.

A S. E. el Sr. Ministro de Relaciones Exteriores y Culto.

Sr. Ministro:

Tengo el honor de dirigirme á V. E. comunicándole que el Gobierno del Paraguay, aprobó con fecha 22 de junio último el Convenio sobre intercambio de ganados entre nuestros respectivos países, firmado en esta capital el 30 de mayo próximo pasado.

Tengo encargo de mi Gobierno para manifestar al que V. E. representa dignamente, que coincida con la opinión de V. E. en cuanto á la innecesidad de una sanción legislativa para que el expresado Convenio pueda entrar en ejecución y en cuanto á que la ratificación del mismo se realice por un simple cambio de notas.

En su consecuencia y con el propósito de señalar una fecha que permita que por la publicación del Convenio en ambos países llegue él al conocimiento de las autoridades que deben intervenir en su cumplimiento, ha sido autorizado para invitar á V. E. á fijar la fecha del 1.° de diciembre próximo para la vigencia del ya recordado Convenio, sirviendo la presente nota como acto de ratificación del mismo por parte de mi Gobierno.

Esta Legación espera tan sólo el asentimiento de V. E. á la determinación del día que dejo propuesto para comunicar á su gobierno la feliz terminación de este asunto de interés para ambos países.

Me es muy grato aprovechar esta oportunidad para renovar á V. E. la expresión de mi consideración más distinguida.

Pedro Saguier.

Ministerio de Relaciones Exteriores y Culto.

Buenos Aires, noviembre 30 de 1908.

A S. S. el Sr. Pedro Saguier, Encargado de Negocios del Paraguay.

Sr. Encargado de Negocios:

Ha tenido el agrado de recibir la nota de S. S. de fecha 2 de noviembre corriente.

En ella me comunica S. S., que su Gobierno aprobó, con fecha 23 de junio último, el Convenio sobre intercambio de ganado entre nuestros respectivos países, firmado en esta Capital el 30 de mayo ppdo., manifestándome, al mismo tiempo que ha sido autorizado para invitarme á fijar la fecha de 1.⁰ de diciembre próximo, para la vigencia del Convenio, sirviendo la citada nota como acto de ratificación por parte del Gobierno de S. S.

De acuerdo con lo manifestado en mi oficio de 7 de septiembre del año en curso y dando también como acto de ratificación del Convenio la presente nota, me es grato participar á S. S. la aceptación por parte del Gobierno Argentino, de la fecha indicada por S. S. para que el recordado Convenio entre en vigor.

Esperando que S. S. lo comunicará á su Gobierno, para que el ajuste llegue oportunamente á conocimiento de las autoridades que deben intervenir en su cumplimiento, saludo á S. S. con las seguridades de mi consideración distinguida.

V. de la Plaza.

Nota.—Está en vigencia.

118.

SUISSE, BULGARIE.

Arrangement de commerce; réalisé par un Echange de notes du 12 et du 17 février 1906.

British and Foreign State Papers C (1911), p. 824.

1.

Vienne, le 12 février, 1906.

M. l'Agent Diplomatique et cher Collègue,

En me référant à la communication que vous avez bien voulu me faire d'ordre de votre Gouvernement, en date du 26 janvier dernier, j'ai l'honneur de porter à votre connaissance que le Conseil Fédéral de la Confédération Suisse, convaincu de l'intérêt réciproque qu'il y aurait à régler d'une manière définitive les relations commerciales entre la Suisse et la Principauté de Bulgarie, propose à votre Gouvernement la conclusion d'un Traité définitif.

Espérant que le Gouvernement de la Principauté accueillera favorablement cette proposition, le Conseil Fédéral désire maintenir jusqu'au moment où une telle entente pourrait être mise en vigueur, le traitement de la nation la plus favorisée, garanti par les notes échangées le 22 et le

27 février 1897, entre le Ministre de Suisse à Vienne et l'Agent Diplomatique de Bulgarie en cette résidence, comme il n'a pas cessé de l'appliquer aux marchandises de provenance Bulgare à l'entrée en Suisse.

Du Martheray,
Ministre de Suisse.

Monsieur M. K. Sarafow,
Agent diplomatique de la Principauté de Bulgarie.

2.

Agence diplomatique de Bulgarie,
Vienne, le $\frac{4}{17}$ février, 1906.

M. le Ministre et cher Collègue,

J'ai l'honneur de vous accuser réception de votre note en date du 12 février a.c. par laquelle vous avez bien voulu me faire savoir que le Conseil Fédéral de la Confédération Suisse propose au Gouvernement Bulgare la conclusion d'un Traité définitif et que jusqu'au jour où une telle entente pourrait être mise en vigueur, il désire maintenir entre nos deux pays le régime de la nation la plus favorisée.

En réponse à cette obligeante communication, je m'empresse de porter à votre connaissance, d'ordre du Gouvernement Princier, qu'il est également prêt d'entrer en négociations avec le Gouvernement Fédéral pour la conclusion d'un Traité de Commerce définitif. Aussi, je vous prie, M. le Ministre et cher collègue, de vouloir bien m'informer des intentions du Gouvernement Suisse relativement à la ville où il voudrait que les négociations se poursuivent et où devrait avoir lieu l'échange des propositions sur les desiderata se rapportant aux tarifs douaniers Bulgare et Suisse.

Je suis heureux de vous faire savoir en même temps que le Gouvernement Bulgare, ayant en vue que le Gouvernement Fédéral n'a pas cessé d'appliquer et appliquera à l'avenir la clause de la nation la plus favorisée aux marchandises de provenance Bulgare entrant en Suisse, traitera sur la base de la même clause de la nation la plus favorisée les produits Suisses importés dans la Principauté, et cela à partir du 1—14 janvier, 1906, jusqu'à la conclusion du Traité de Commerce définitif.

C'est avec plaisir que je saisis cette occasion pour vous réitérer, etc.

M. K. Sarafow,
Agent diplomatique de Bulgarie.

M. F. H. du Martheray,
Ministre de la Confédération Suisse, Vienne.

119.

ETATS-UNIS D'AMÉRIQUE, BULGARIE.

Arrangement de commerce; réalisé par un Echange de notes des $\frac{5 \text{ juin}}{23 \text{ mai}}$ et 19/6 juin 1906.

British and Foreign State Papers C (1911), p. 826.

(1.)

(No. 38) Legation of the United States of America,
Sophia, le $\frac{23 \text{ mai}}{5 \text{ juin}}$, 1906.

Monsieur le Ministre,

Autorisé par mon Gouvernement, j'ai l'honneur de proposer que le traitement réciproque des nations les plus favorisées continue à être appliqué dans les relations commerciales entre le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la Bulgarie.

Veuillez agréer, etc.

Jackson.

Son Excellence, Monsieur D. Petkoff,
Ministre de l'Intérieur et *ad interim* des Affaires Etrangères.

(2.)

Sophia, le $\frac{6}{19}$ juin, 1906.

Monsieur le Ministre,

J'ai l'honneur de porter à la connaissance de Votre Excellence que le Gouvernement Princier accepte la proposition que vous avez bien voulu, au nom de votre Haut Gouvernement, formuler dans la note du 23 mai—5 juin a.c. sub No. 38, à savoir, que le traitement réciproque de la nation la plus favorisée continue à être appliqué dans les relations de commerce entre la Bulgarie et les Etats-Unis d'Amérique.

Veuillez agréer etc.

R. Petkoff.

Son Excellence, Monsieur Jackson,
Ministre Plénipotentiaire, Agent Diplomatique
des Etats-Unis d'Amérique.

120.

FRANCE, PAYS-BAS.

Convention additionnelle à la Convention télégraphique du 6 avril 1904;*) signée à la Haye, le 21 février 1906.**)

Journal officiel du 9 octobre 1906.

Le Président de la République Française et Sa Majesté la Reine des Pays-Bas s'étant mis d'accord en vue de prolonger jusqu'au 31 décembre, 1906, le délai prévu par la Convention du 6 avril, 1904, pour l'établissement d'une communication télégraphique sous-marine entre Saïgon et Pontianak et ayant résolu de conclure à ces fins une Convention, ont dûment autorisé à cet effet, savoir:

Le Président de la République Française: M. Baylin de Montbel, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République Française près Sa Majesté la Reine des Pays-Bas;

Sa Majesté la Reine des Pays-Bas: M. le Jonkheer D.-A.-W. de Tets de Goudriaan, Son Ministre des Affaires Etrangères;

Lesquels sont convenus de ce qui suit:

Art. I. Est substituée aux termes du paragraphe 5 de l'Article I de la Convention du 6 avril, 1904, la stipulation suivante:

„La communication prévue ci-dessus devra être organisée avant le 1er janvier, 1907."

II. La présente Convention sera ratifiée et les ratifications en seront échangées à La Haye aussitôt que faire se pourra.

En foi de quoi, les Plénipotentiaires respectifs ont signé la présente Convention et l'ont revêtue de leurs cachets.

Fait à La Haye, en double exemplaire, le 21 février, 1906.

(L. S.) *De Montbel.*
(L. S.) *Van Tets van Goudriaan.*

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*) V. N. R. G. 2. s. XXXIII, p. 516.
**) Les ratifications ont été échangées à la Haye, le 15 août 1906.

121.

NORVÈGE, SUÈDE.

Convention concernant le règlement de questions économiques soulevées à l'occasion de la dissolution de l'Union des deux pays; signée à Stockholm, le 23 mars 1906.*)**)

Recueil des Traités de la Norvège (1907), p. 636.

Undertegnede, dertil behørig befuldmægtigede er kommen overens om følgende bestemmelser vedrørende det *økonomiske opgjør* mellem Norge og Sverige i anledning af unionens opløsning.

Art. 1. Norge erlægger til Sverige den paa 1ste halvaar 1905 faldende andel af den i Norges og Sveriges fælles udenrigsbudget for nævnte aar optagne norske bevilgning til *kabinetskassen,* samt, af Norges bevilgning til kabinetskassens tilfældige og uforudseede udgifter samme aar, den paa Norge faldende andel af de til det svenske udenrigsdepartements tjenestemænd og betjente for 1ste halvaar 1905 udbetalte *dyrtidstillæg.*

Art. 2. Norge erlægger til Sverige den paa tidsrummet 1 januar—31 oktober 1905 faldende andel af den i det fælles budget for nævnte aar optagne norske bevilgning til *konsulskassen* samt desuden Norges andel i følgende udgifter for 1904, hvilke ikke er bleven udredet af bevilgningen for nævnte aar, nemlig:

a. de virkelige *embedsudgifter* ved konsulaterne for hele aaret 1904; samt

Undertecknade, därtill behörigen befullmäktigade, hafva öfverenskommit om följande bestämmelser i fråga om den *ekonomiska uppgörelsen* mellan Norge och Sverige i anledning af unionens upplösning.

Art. 1. Norge erlägger till Sverige den på 1sta halfåret 1905 belöpande andelen af det i Norges och Sveriges gemensamma utrikesbudget för nämnda år upptagna norska anslaget till *kabinettskassan,* samt, af Norges anslag till kabinettskassans tillfälliga och oförutsedda utgifter samma år, den på Norge belöpande andelen af de till svenska utrikesdepartementets tjänstemän och betjänte för 1sta halfåret 1905 utbetalda *dyrtidstilläg.*

Art. 2. Norge erlägger till Sverige den på tiden 1 januari—31 oktober 1905 belöpande andelen af det i den gemensamma budgeten för nämnda år upptagna norska anslaget till *konsulskassan* samt dessutom Norges andel i följande uftgifter för 1904, hvilka icke bestridts med anslaget för nämnda år, nämligen:

a. de verkliga *ämbetsutgifterna* vid konsulaten för hela år 1904; samt

*) Les ratifications ont été échangées à Stockholm, le 16 juin 1906.
**) V. les Documents N. R. G. 2. s. XXXIV, p. 700 et suiv.

b. de virkelige *kontorholdsgodtjørelser* med regnskabspligt ved de lønnede konsulater for 2[det] halvaar 1904.

Art. 3. Den konsulskassen tilfaldende andel af de ved konsulaterne i tidsrummet 1 januar—31 oktober 1905 i norske anliggender erlagte ekspeditionsafgifter indgaar til det svenske udenrigsdepartement for, sammen med Norges og Sveriges direkte bevilgninger samt konsulskassens andel i ekspeditionsafgifterne i svenske anliggender for samme tidsrum, at anvendes til bestridelse af udgifter i konsulære anliggender i aaret 1905.

Art. 4. De *pensioner* og de *vartpenge*, som udgaar til i fælles diplomatisk eller konsulær tjeneste tidligere ansatte personer, skal udredes af det land, hvis undersaat pensionseller vartpengeindehaveren for nærværende er. Udgaar pension til enke efter saadan tjenestemand, udredes pensionen af det land, hvis undersaat den afdøde ved dødsfaldet var.

Denne bestemmelse kommer i henseede til de fra kabinetskassen udgaaende pensioner til anvendelse fra 1 juli 1905 samt betræffende pensioner og vartpenge fra konsulskassen fra 1 november 1905.

Art. 5. *Udgifterne ved hjemflytning* af de tidligere i Norges og Sveriges tjeneste i *Japan og Kina* ansatte diplomatiske og konsulære tjenestemænd, hvilke ved sin udnævnelse eller beskikkelse har faaet sig tilsikret godtgjørelse for nævnte udgifter, udredes:

hvad angaar de tjenestemænd, som har været ansat i Japan i anledning af den russisk-japanske krig, af det

b. de verkliga *kontorskostnadsersättningarna* mod redovisningsskyldighet vid de lönade konsulaten under 2[dra] halfåret 1904.

Art. 3. Den konsulskassan tillfallande andel af de vid konsulaten under tiden 1 januari—31 oktober 1905 i norska ärenden erlagda expeditionsafgifter ingår till det svenska utrikesdepartementet för att, jämte Norges och Sveriges direkta anslag samt konsulskassans andel i expeditionsafgifterna i svenska ärenden för samma tid, användas till bestridande af utgifter i konsulära ärenden år 1905.

Art. 4. De *pensioner* och den *expektanslön*, som utgå till i gemensam diplomatisk eller konsulär tjänst förut anställda personer, skola utgöras af det land, hvars undersåte pensions- eller expektanslöntagaren för närvarande är. Utgår pension till änka efter sådan tjänsteman, utgöres pensionen af det land, hvars undersåte den aflidne vid dödstillfället var.

Denna bestämmelse tillämpas med afseende å de från kabinettskassan utgående pensioner från den 1 juli 1905 samt beträffande pensioner och expektanslön från konsulskassan från den 1 november 1905.

Art. 5. *Hemflyttningskostnaderna* för de förut i Norges och Sveriges tjänst i *Japan och Kina* anställde diplomatiska och konsulära tjänstemän, hvilka vid utnämning eller förordnande fått sig ersättning för berörda kostnader tillförsäkrad, bestridas:

i fråga om de tjänstemän, hvilka varit anställde i Japan med anledning af rysk-japanska kriget, af svenska

svenske udenrigsdepartement af bevilgningen for aaret 1905, og

hvad anden tjenestemand angaar af det land, hvis undersaat tjenestemanden er.

Art. 6. a. Sverige tilløser sig Norges andel dels i de i det svenske *udenrigsdepartements lokale værende inventarier* dog undtaget saadanne gjenstande, til hvis anskaffelse Norge — efter hvad man med grund kan antage — ikke har bidraget, dels ogsaa i de ved *legationerne i udlandet* værende, for fælles midler indkjøbte *inventarier*. Værdsættelsen af de heromhandlede inventarier udføres af sagkyndige personer og skal godkjendes af de norske og svenske udenrigsdepartementer;

b. De for fælles midler indkjøbte *inventarier ved konsulaterne* fordeles mellem Norge og Sverige uden foregaaende værdsættelse paa følgende maade:

Norge erholder inventarierne ved:	*Sverige* erholder inventarierne ved:
gen. kons. i Antwerpen	gen.kons.i Barcelona
— i Archangel	— i Hamburg
— i Genua	— i Helsingfors
— i Havre	— i Kjøbenhavn
— i Kobe	— i London
— i Lissabon	— i Lybeck
samt	— i Quebec
kons. i Bilbao	— i Shanghai
— i Leith og	kons. i Riga
— i New York.	

Art. 7. Den af den fælles konsulskasse i aaret 1877 indkjøbte til aaret 1945 gjældende besiddelsesret til konsulathuset i London, hvilket for nærværende indehaves af den svenske generalkonsul dersteds, skal sælges gjennem det svenske generalkonsulats foranstaltning. Kjøbeanbud skal, inden

utrikesdepartementet af anslagen för år 1905; och

i fråga om annan tjänsteman af det land, hvars undersåte tjänstemannen är.

Art. 6. a. Sverige tillöser sig Norges andel dels i de i svenska *utrikesdepartementets lokal befintliga inventarier*, sådana föremål dock undantagna, till hvilkas anskaffande, efter hvad skäligen kan antagas, Norge icke bidragit, dels ock i de vid *beskickningarna i utlandet* befintliga för gemensamma medel inköpta *inventarier*. Värderingen af ifrågavarande inventarier verkställes af sakkunniga personer och skall godkännas af de norska och svenska utrikesdepartementen;

b. De för gemensamma medel inköpta *inventarierna vid konsulaten* fördelas mellan Norge och Sverige utan föregående värdering på följande sätt:

Norge erhåller inventarierna vid:	*Sverige* erhåller inventarierna vid:
gen. kons. i Antwerpen	gen.kons.i Barcelona
— i Archangel	— i Hamburg
— i Genua	— i Helsingfors
— i Havre	— i Köpenhamn
— i Kobe	— i London
— i Lissabon	— i Lybeck
	— i Quebec
	— i Shanghai
kons. i Bilbao	kons. i Riga.
— i Leith	
— i New York.	

Art. 7. Den af den gemensamma konsulskassan år 1877 inköpta till år 1945 gällande besittningsrätten till konsulathuset i London, hvilket för närvarande innehafves af den svenske generalkonsuln därstädes, skall försäljas genom det svenska generalkonsulatets försorg. Köpeanbud skall,

det antages, godkjendes af de norske og svenske udenrigsdepartementer.

Kjøbesummen fordeles lige mellem Norge og Sverige.

For tidsrummet fra det norske generalkonsulats flytning fra konsulathuset, og saalænge Sveriges generalkonsulat er indlogeret der, skal Sverige til den norske statskasse erlægge leieafgift med et beløb, der modsvarer 4 procent pro anno af Norges andel af den blivende salgssum. I samme tidsrum udreder Sverige omkostningerne ved husets vedligehold samt de paa samme hvilende udgifter og onera.

Art. 8. Ved de konsulater, hvor husleien for de af konsulaterne leiede kontorlokaler er bleven udredet af de konsulaterne tillagte kontorholdsgodtgjørelser mod regnskabspligt, skal husleiebeløbene for tiden efter 1 november 1905 udredes af hvert rige særskilt, hvert rige for det kontorlokale, som af dets konsulat efter nævnte dag er bleven disponeret.

Art. 9 Denne overenskomst skal ratificeres.

Udfærdiget i to eksemplarer paa norsk og svensk i Stockholm den 23 mars 1906.

Helmer Bryn.
Eric Trolle.

innan det antages godkännas af de norska och svenska utrikesdepartementen.

Köpeskillingen fördelas lika mellan Norge och Sverige.

För tiden från det norska generalkonsulatets afflyttning från konsulathuset och så länge Sveriges generalkonsulat är där inrymdt, skall Sverige till norska statskassan erlägga hyresersättning med belopp motsvarande 4 procent för år räknadt på Norges andel af den blifvande försäljningssumman. Under samma tid utgör Sverige kostnaderna för husets underhåll samt de å detsamma hvilande utgifter och onera.

Art. 8. Vid de konsulat, hvarest hyra för de af konsulaten förhyrda kontorslokaler bestridts med de konsulaten tillagda kontorskostnadsersättningar mot redovisningsskyldighet, skola hyresbeloppen för tiden från den 1 november 1905 utgöras af de båda rikena särskildt, hvartdera riket för de kontorslokaler, som af dess konsulat efter nämnda dag disponerats.

Art. 9. Denna öfverenskommelse skall ratificeras.

Som skedde i två exemplar på norska och svenska i Stockholm den 23 mars 1906.

Helmer Bryn.
Eric Trolle.

122.

NORVÈGE, SUÈDE.

Déclaration concernant la répartition des archives des légations et des consulats antérieurement communs; signée à Stockholm, le 27 avril 1906.

Recueil des Traités de la Norvège (1907), p. 641.

Undertegnede kongelige norske chargé d'affaires har den ære efter bemyndigelse for Hans Excellence Herr Trolle, Hans Majestæt Kongen af Sveriges Minister for de udenrigske Anliggender at tilkjendegive, at den norske regjering, under forudsætning af et tilsvarende tilkjendegivende fra svensk side, for sin del godkjender følgende regler med hensyn til fordelingen mellem Norge og Sverige af de tidligere fælles legationers, konsulaters og vicekonsulaters arkiver:

1. Af *legationernes* arkiver afgives snarest muligt til den i vedkommende land akkrediterede norske diplomatiske repræsentant de dokumenter, som udelukkende angaar norske sager, samt norske lovsamlinger og andre norske tryksager. De afgivne arkivsager skal være ledsaget af en fortegnelse over samme. Af dokumenter, som omhandler fælles norske og svenske sager, skal Norges diplomatiske repræsentant gives adgang til at tage de afskrifter, som han efterhaanden maatte finde brug for.

2. De *lønnede konsulaters og vicekonsulaters* arkiver overtages med nedenanførte begrænsninger af Norges konsulater, respektive vicekonsulater i: Antwerpen, Archangel, Bilbao, Cardiff, Genua, Havre, Kobe, Leith, Newcastle o/T., New York og Rio de

Undertecknad, Hans Majt Konungens af Sverige Minister för Utrikes ärendena, därtill vederbörligen bemyndigad, har äran tillkännagifva för Herr Bryn, Kungl. Norsk Chargé d'Affaires, att svenska regeringen, under förutsättning af et motsvarande tillkännagifvande från norsk sida, för sin del godkänner följande regler beträffande fördelningen mellan Sverige och Norge af de förutvarande gemensamma beskickningarnas, konsulatens och vicekonsulatens arkiv:

1. Från *beskickningarnas* arkiv utlämnas snarast möjligt till den i vederbörande land ackrediterade norske diplomatiska representant de handlingar, som uteslutande angå norska ärenden, samt norska lagsamlingar och andra norska trycksaker. De utlämnade arkivalierna skola åtföljas af en förteckning öfver desamma. Af handlingar, som angå gemensamma svenska och norska ärenden, skall Norges diplomatiske representant lämnas tillfälle att taga de afskrifter, för hvilka han efter hand må finna bruk.

2. De *lönade konsulatens och vicekonsulatens* arkiv öfvertagas med nedan angifna begränsningar af de svenska konsulaten respektive vicekonsulaten uti Barcelona, Hamburg, Helsingfors, Köpenhamn, Liverpool, London, Lybeck, Quebec, Riga och Shanghai och

Janeiro og af Sveriges konsulater respektive vicekonsulater i Barcelona, Hamburg, Helsingfors, Kjøbenhavn, Liverpool, London, Lybeck, Quebec, Riga og Shanghai.

3. Ved *ulønnede konsulater og vicekonsulater,* hvis indehaver endelig bliver staaende som norsk konsul, overtages fællesarkivet med nedenanførte begrænsninger af det norske og ved ulønnede konsulater og vicekonsulater, hvis indehaver endelig bliver staaende som svensk konsul, af det svenske konsulat respektive vicekonsulat.

Ved de ulønnede konsulater og vicekonsulater, som ved nærværende tidspunkt hverken for Norges eller Sveriges vedkommende beklædes af den sidste fælles konsul respektive vicekonsul, overtages med nedenanførte begrænsninger fællesarkivet af det norske konsulat respektive vicekonsulat, saafremt der handles om udeneuropæisk sted, og af det svenske konsulat respektive vicekonsulat, saafremt der handles om europæisk sted.

4. Af de fællesarkiver, som overtages af de norske konsulater og vicekonsulater, skal de dokumenter, som udelukkende omhandler svenske sager, samt svenske bøger og andre svenske tryksager og af de fællesarkiver, som overtages af de svenske konsulater og vicekonsulater, de dokumenter, som udelukkende omhandler norske sager samt norske bøger og andre norske tryksager snarest muligt ud skilles og med fortegnelse overleveres Sveriges respektive Norges konsulære repræsentant.

Af dokumenter, som omhandler fælles norske og svenske sager og

af de norska konsulaten respektive vicekonsulaten uti Antwerpen, Archangel, Bilbao, Cardiff, Genua, Havre, Kobe, Leith, Newcastle o/T., New York och Rio de Janeiro.

3. Vid *olönadt konsulat eller vicekonsulat,* hvars innehafvare slutligen kvarstår såsom svensk konsul respektive vicekonsul, öfvertagas des gemensamma arkivet med nedan angifna begränsningar af det svenska, och vid olönadt konsulat eller vicekonsulat, hvars innehafvare slutligen kvarstår såsom norsk konsul respektive vicekonsul, af det norska konsulatet respektive vicekonsulatet.

Vid olönadt konsulat eller vicekonsulat, hvilket i närvarande stund hvarken för Sveriges eller Norges del innehafvas af den siste gemensamma konsuln respektive vicekonsuln, öfvertagas med nedan angifna begränsningar det gemensamma arkivet af det svenska konsulatet respektive vicekonsulatet, då fråga är om inom Europa belägna orter, och af det norska konsulatet respektive vicekonsulatet, då fråga är om utom Europa belägna orter.

4. Från de gemensamma arkiv, som öfvertagas af svenskt konsulat respektive vicekonsulat skola de handlingar, som uteslutande angå norska ärenden, samt norska böcker och andra norska trycksaker, och från dylika arkiv, som öfvertagas af norskt konsulat respektive vicekonsulat, de handlingar, som uteslutande angå svenska ärenden, samt svenska böcker och andra svenska trycksaker snarast möjligt uttagas och, åtföljda af förteckning, öfverlämnas till Norges respektive Sveriges konsuläre representant.

Af handlingar, som angå gemensamma svenska och norska ärenden

overtages af de norske konsulater og vicekonsulater, skal Sveriges konsulære repræsentant og af deslige dokumenter, der overtages af de svenske konsulater og vicekonsulater, Norges-konsulære repræsentant gives adgang til at tage de afskrifter, som han efterhaanden maatte finde brug for.

Stockholm den 27 april 1906.

H. Bryn.

och öfvertagas af svenskt konsulat respektive vicekonsulat, skall Norges konsuläre representant, och af dylika handlingar, som öfvertagas af norskt konsulat respektive vicekonsulat, Sveriges konsuläre representant lämnas tillfälle att taga de afskrifter, för hvilka han efter hand må finna bruk.

Stockholm den 27 april 1906.

Trolle.

123.

NORVÈGE, SUISSE.

Echange de notes afin de régler provisoirement les relations commerciales entre les deux pays; du 5 au 28 mai 1906.

Recueil des Traités de la Norvège (1907), p. 660.

Note de la légation de Norvège à Berlin au ministre de Suisse dans ladite ville, en date du 5 mai 1906.

Monsieur le Ministre.

Par suite de la dénonciation du traité du 22 mars 1894*) réglant les relations commerciales entre la Norvège et la Suisse et l'établissement dans les deux Pays, ledit traité cessera à sortir ses effets à partir du 27 mai 1906.

Mon Gouvernement, désireux de voir se continuer les liens d'amitié et les rapports de commerce entre la Norvège et la Suisse, m'a autorisé à porter à la connaissance de Votre Excellence qu'il est disposé à accorder, à titre de réciprocité, à partir du 27 mai de cette année jusqu'à la conclusion d'un nouvel arrangement commercial, aux produits suisses et aux sujets suisses en Norvège le traitement de la nation la plus favorisée. Mon Gouvernement fait, toutefois, réserve pour les concessions spéciales qui sont ou pourraient être accordées aux pays limitrophes en vue de faciliter le trafic de frontière ou qui ont été, jusqu'ici, accordées à la Suède.

Je serais très reconnaissant à Votre Excellence de vouloir bien m'informer de la décision de Votre Gouvernement dans cette affaire.

Veuillez agréer, etc.

M. Lie,
chargé d'affaires.

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*) V. N. R. G. 2. s. XXI, p. 97; XXII, p. 554.

Note du ministre de Suisse à Berlin à la légation de Norvège dans ladite ville en date du 22 mai 1906.

Monsieur le Chargé d'Affaires.

Par votre obligeante note du 5 courant vous avez bien voulu m'informer que votre Gouvernement, désireux de voir se continuer les liens d'amitié et les rapports de commerce entre la Suisse et la Norvège, vous a chargé de m'informer qu'il est disposé à accorder, à titre de réciprocité, à partir du 27 mai de cette année, jusqu'à la conclusion d'un nouvel arrangement commercial, aux ressortissants et produits suisses en Norvège le traitement de la nation la plus favorisée, votre Gouvernement faisant toutefois réserve pour les concessions spéciales qui sont ou pourraient être accordées aux pays limitrophes, en vue de faciliter le trafic de frontière, ou qui ont été jusqu'ici accordées à la Suède.

En réponse à cette obligeante communication, j'ai l'honneur de vous informer, Monsieur le Chargé d'Affaires, que le Conseil fédéral suisse, après avoir pris connaissance de votre note précitée, m'a chargé de vous faire part qu'il est d'accord avec les propositions du Gouvernement Royal de Norvège, suivant lesquelles le traitement de la nation la plus favorisée sera accordé provisoirement et réciproquement en matière de commerce et d'établissement à partir de la date précitée, — et qu'il attend les propositions précédemment annoncées de votre Gouvernement en vue de la négociation d'un nouveau traité de commerce.

En vous priant de faire parvenir le contenu de la présente note à la connaissance du Gouvernement Royal de Norvège, je profite etc.

Le Ministre de Suisse
Alfred de Claparède.

Note de la légation de Norvège à Berlin au Ministre de Suisse dans ladite ville, en date du 28 mai 1906.

Monsieur le Ministre.

Je m'empresse de porter à la connaissance de Votre Excellence que mon Gouvernement, ayant pris connaissance de l'obligeante note que Votre Excellence a bien voulu m'adresser le 22 mai 1906, m'a chargé de Lui faire part qu'il considère comme entendu que le traitement de la nation la plus favorisée sera réciproquement appliqué dès l'expiration du traité le 27 mai courant.

Veuillez agréer, etc.

M. Lie,
chargé d'affaires.

124.

COLOMBIE, EQUATEUR.

Convention télégraphique; signée à Bogotá, le 5 mai 1906.*)

Copie officielle.

Convenio telegráfico entre Colombia y el Ecuador.

Las Repúblicas de Colombia y del Ecuador, deseando asegurar la estabilidad de la comunicación telegráfica como un medio de estrechar mas sus relaciones de amistad y de favorecer sus intereses recíprocos, han autorizado para ello a sus respectivos Plenipotenciarios, a saber:

La República de Colombia al Ministro de Relaciones Exteriores, Señor Doctor Clímaco Calderón, y la República del Ecuador al Señor General Don Julio Andrade, su Enviado Extraordinario y Ministro Plenipotenciario en Bogotá, quienes han acordado lo siguiente:

Artículo 1º.

Los Gobiernos de las dos Naciones contratantes garantizan la estabilidad de la comunicación telegráfica, y para ello se obligan a mantener sus lineas en buena conservación y a procurar el mejor servicio de sus empleados pero no asumen ninguna responsabilidad por extravíos, alteraciones u otras irregularidades que puedan ocurrir, ocasionalmente, en el curso de los despachos.

Artículo 2º.

Los despachos enviados de Colombia para el Ecuador y viceversa se sujetarán a la tarifa del país que los expedida, como si cursaren dentro de sus fronteras, y el país destinatario los trasmitirá, libres de derechos, hasta el lugar de su destino, siempre que éste se halle dentro de su red telegráfica.

Artículo 3º.

Todos los despachos telegráficos que se cambien entre las dos Naciones tendrán el carácter de urgentísimos y por lo tanto no habrá diferencia alguna en la aplicación de la tarifa ni en la celeridad de la trasmisión.

Artículo 4º.

Las comunicaciones telegráficas de los Jefes y Secretarios de Estado, de los Agentes Diplomáticos de los dos países y de las Autoridades de Policía fronterizas tendrán preferencia sobre cualesquiera otras y serán recibidas y despachadas libres de porte.

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*) Mise en vigueur sans échange de ratifications.

Artículo 5º.

Para el caso en que Colombia y el Perú o el Ecuador y Venezuela celebren convenios análogos al presente, los despachos expedidos de Colombia para el Perú y del Ecuador para Venezuela serán trasmitidos por las líneas telegráficas del país intermedio, en las mismas condiciones estipuladas por el actual arreglo.

Artículo 6º.

Cada una de las Partes Contratantes tendrá siempre el derechos de proteger sus intereses e impedir que se haga uso del telégrafo con perjuicio de su seguridad, de la moral o del orden público, con sujeción a las leyes y reglamentos preexistentes.

Artículo 7º.

Los Directores de Telégrafos de los dos países quedan facultados para acordar entre sí, directamente, consultando las necesidades del servicio, las medidas de orden y detalle para la ejecución del presente Convenio; el cual permanecerá en vigor mientras no haya entre las Partes mutuo consentimiento para rescindirlo o hasta un año después que uno de los dos Gobiernos manifieste al otro su voluntad de revocarlo o reformarlo.

Artículo 8º.

Las Repúblicas de Colombia y el Ecuador se reconocen, mutuamente, cualquiera preferencia o ventaja que una de ellas concediere a otra Nación en arreglos de la misma naturaleza que el presente, para lo cual convienen en adoptar la cláusula del país mas favorecido.

Este Convenio será canjeado en Bogotá o en Quito dentro del más breve término posible.

En fe de lo cual, nosotros, los Plenipotenciarios de una y otra República, lo hemos firmado y sellado con nuestros sellos particulares, en la ciudad de Bogotá, el día cinco de mayo de mil novecientos seis.

Climaco Calderon.
Julio Andrade.

125.

FRANCE, NORVÈGE.

Echange de notes concernant l'admission réciproque de la jauge inscrite dans les papiers de bord; des 10 et 12 mai 1906.

Recueil des Traités de la Norvège (1907), p. 320.

Note du 10 mai 1906, adressée au chargé d'affaires de Norvège à Paris par le Ministre des Affaires Etrangères de France.

Monsieur le Chargé d'Affaires,

Depuis l'entrée en vigueur, à la date du 1er juillet 1904, du décret du 22 juin précédent, la méthode de jaugeage des navires appliquée en France est devenue la même que celle usitée en Angleterre et pratiquée par la plupart des pays maritimes, notamment par la Norvège.

Dans ces conditions, le Gouvernement français a l'honneur de proposer au Gouvernement Norvégien que dorénavant la jauge inscrite dans les papiers de bord délivrés aux navires français et norvégiens par les autorités compétentes de leurs pays respectifs soit admise dans l'autre pays comme base pour la perception des droits de navigation, sous la réserve que, si des différences importantes venaient à être constatées entre la jauge française et la jauge norvégienne, les administrations norvégienne et française auraient respectivement l'une et l'autre le droit de rectifier le tonnage pour la perception des droits.

Agréez, etc. *Léon Bourgeois.*

Lettre, datée Paris le 12 mai 1906, adressée au Ministre des Affaires Etrangères de France par le Chargé d'Affaires de Norvège à Paris:

Par une lettre, en date du 10 de ce mois, constatant que, depuis l'entrée en vigueur, à la date du 1er juillet 1904, du décret du 22 juin précédent, la méthode de jaugeage des navires appliquée en France est devenue la même que celle usitée en Angleterre et pratiquée par la plupart des pays maritimes, notamment par la Norvège, Votre Excellence a bien voulu, au nom du Gouvernement français, proposer que dorénavant la jauge inscrite dans les papiers de bord délivrés aux navires norvégiens et français par les autorités compétentes de leurs pays respectifs, fût admise dans l'autre pays comme base pour la perception des droits de navigation, sous

la réserve que, si des différences importantes venaient à être constatées entre la jauge norvégienne et la jauge française, les administrations française et norvégienne auraient respectivement l'une et l'autre le droit de rectifier le tonnage, pour la perception des droits.

En réponse, j'ai l'honneur, conformément aux instructions reçues, de faire savoir à Votre Excellence que le Gouvernement norvégien accepte cette proposition sous la réserve faite par le Gouvernement français et reproduite ci-dessus.

Veuillez agréer, etc.

Le Chargé d'Affaires p. i.
Waldemar Eckell.

126.

BELGIQUE, FRANCE.

Déclaration portant revision de l'abornement entre la Belgique et le Département de Meurthe et Moselle; signée à Bruxelles, le 15 mai 1906.

Moniteur belge 1906. No. 208.

Revision de l'abornement du 29 septembre 1823, entre le Département de Meurthe et Moselle (France) et la Belgique, compris dans la 6e section de la délimitation signée à Courtrai le 28 mars 1820.*)

Le Gouvernement belge et le Gouvernement français ayant jugé utile de faire procéder à un nouvel abornement entre la Belgique et la France, le long du Département de Meurthe et Moselle et à une nouvelle description de la limite telle qu'elle a été établie par les articles 43 à 56 inclusivement, du procès-verbal de la délimitation entre le Grand-Duché de Luxembourg et la France, formant la 6e section de toute la frontière entre les Royaumes des Pays-Bas et de France, les soussignés dûment autorisés sont convenus de ce qui suit:

Article unique. Sont approuvés:

1° Les procès-verbaux de délimitation de la frontière belge-française, signés le 20 juillet 1903 à Longwy-Bas**) et comprenant la limite:

1° Entre Torgny et Epiez;
2° Entre Saint-Mard et Allondrelle;
3° Entre Ruette et Allondrelle;
4° Entre Ruette et Longuyon;

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*) V. N. S. I, p. 587. **) Non reproduit.

5⁰ Entre Ruette et Tellancourt;
6⁰ Entre Ruette et Saint-Pancré;
7⁰ Entre Bleid et Saint-Pancré;
8⁰ Entre Musson et Ville-Houdlémont;
9⁰ Entre Musson et Gorcy-Cussigny;
10⁰ Entre Musson et Cosnes;
11⁰ Entre Halanzy et Cosnes;
12⁰ Entre Halanzy et Mont-Saint-Martin;
13⁰ Entre Aubange et Mont-Saint-Martin;

2⁰ Les plans annexés aux dits procès-verbaux.

En foi de quoi les soussignés ont signé la présente déclaration.

Fait en double à Bruxelles, le 15 mai 1906.

Le Ministre des Affaires Etrangères de Sa Majesté le Roi des Belges,
P. de Favereau.

L'Envoyé Extraordinaire et Ministre Plénipotentiaire de la République Française près Sa Majesté le Roi des Belges,
A. Gérard.

127.

NORVÈGE, SUÈDE.

Déclaration concernant les enquêtes au sujet de sinistres maritimes; signée à Stockholm, le 25 mai 1906.

Recueil des Traités de la Norvège (1907), p. 643.

Hans Majestæt Kongen af Norge og Hans Majestæt Kongen af Sverige har bemyndiget de undertegnede til at afslutte følgende overenskomst:

Er norsk eller svensk fartøi bleven rammet af saadan ulykke, som omhandles i den norske sjølovs § 321 og i den svenske sjølovs § 317, og skal sjøforklaring angaaende ulykken optages ved en domstol i det land, hvor fartøiet ikke hører hjemme, paaligger det samme domstol tillige at foretage saadan undersøgelse, som omhandles i de fornævnte lovbestem-

Hans Majestät Konungen af Norge och Hans Majestät Konungen af Sverige hafva bemyndigat undertecknade att afsluta följande öfverenskommelse:

Har norskt eller svenskt fartyg drabbats af sådan olycka, som omförmäles i 321 § af norska sjölagen och 317 § af svenska sjölagen, och skall sjöförklaring angående olyckan upptagas inför domstol i det land, dit fartyget icke hörer, åligger det samma domstol att jamväl verkställa sådan undersökning, som i nyssnämnda lagrum afses; och skall protokollet

melser, og skal akt af sjøforklaringen ad diplomatisk vei tilstilles regjeringen i skibets hjemland.

Denne overenskomst skal straks træde i kraft og forblive gjældende, indtil udløbet af et aar, efterat den er bleven opsagt af nogen af parterne.

Til bekræftelse heraf har de undertegnede underskrevet denne deklaration og forsynet den med sine segl.

Udfærdiget i Stockholm i to eksemplarer paa norsk og svensk.

Stockholm den 25de mai 1906.

Benjamin Vogt.

öfver undersökningen på diplomatisk väg delgifvas regeringen i det land, till hvilket fartyget hörer.

Denna öfverenskommelse skall genast träda i kraft och förblifva gällande, intill dess ett år förflutit, efter det någondera af parterna uppsagt densamma.

Till bekräftelse häraf hafva undertecknade underskrifvit denna deklaration och försett densamma med sina sigill.

Som skedde i Stockholm i två exemplar på norska och svenska.

Stockholm den 25 maj 1906.

Eric Trolle.

128.

NORVÈGE, SUÈDE.

Echange de notes concernant la franchise de droits d'entrée pour les effets des chancelleries destinés à l'usage des consulats; des 13 et 14 septembre 1906.

Recueil des Traités de la Norvège (1907), p. 644.

Légation de Norvège.

Stockholm, 13de september 1906.

Herr Minister.

Efter ordre fra min regjering har jeg herved den ære at forespørge Deres Excellence, om den Svenske Regjering, under forudsætning af gjensidighed, hvilken for Norges vedkommende ved nærværende note tilsiges, skulde være villig til fremtidig at tilstaa toldfri indførsel til Sverige af diverse konsulatrekvisita, bestaaende af flag, vaabenskjolde, signeter, stempler, papir, protokoller og skrivesager i fornøden udstrækning til brug ved Norske generalkonsulater, konsulater og vicekonsulater, der er oprettet eller maatte blive oprettet i Sverige. Det er forudsætningen, at de nævnte effekter

i hvert enkelt tilfælde ved henvendelse til Det Svenske Udenrigsdepartement skriftlig reklameres gjennem Norges diplomatiske repræsentant i Stockholm.

Modtag, Deres Excellence, forsikringen om min udmerkede høiagtelse.

Herman Reimers.

Hans Excellence Herr Trolle,
Minister for de udenrigske anliggender
etc. etc. etc.,
Stockholm.

Kungl. Utrikes Departementet.

Stockholm d. 14de sept. 1906.

Herr Chargé d'Affaires.

Genom Eder note af den 13 innevarande månad har Ni, jämlikt från norska regeringen mottagna instruktioner, framställt förfrågan, huruvida svenska regeringen voro beredd att, under förutsättning af ömsesidighet, för framtiden medgifva tullfri införsel till Sverige af olika slags konsulatrekvisita, nämligen flaggor, vapensköldar, sigill, stämplar, papper, protokoller och skrifmateriel afsedda att begagnas ved de norska generalkonsulat, konsulat och vicekonsulat, som redan upprättats eller kunna komma at upprättas i Sverige.

Til svar härå har jag äran meddela att, under förutsättning af ömsesidighet, tullfrihet kommer att vid införsel till Sverige för framtiden medgifvas konsulatrekvisita af ofvan uppräknade slag, som äro afsedda att begagnas vid et här i landet upprättadt norskt generalkonsulat, konsulat eller vicekonsulat, under villkor att nämnda föremål i hvarje särskildt fall skriftligen reklameras i kungl. utrikesdepartementet genom norska beskickningen i Stockholm.

Mottag, Herr Chargé d'affaires, försäkran om min fullkomliga högaktning.

Eric Trolle.

Hr. Reimers,
Kungl. norsk Chargé d'Affaires a. i.
etc. etc.

129.

COLOMBIE, PÉROU.

Arrangement pour statuer un modus vivendi relatif aux frontières des deux pays; signé à Lima, le 6 juillet 1906.*)

Copie officielle.

Modus Vivendi.

Los Gobiernos de Colombia y del Perú, haciendo prácticos los propósitos de arreglo fraternal que han determinado la celebración del tratado de arbitraje sobre límites, suscrito en Bogotá, el dia doce de septiembre de mil novecientos cinco**), y para asegurar la armonía entre los dos países, ligados por estrechos vínculos de amistad, han resuelto celebrar un acuerdo conducente a ese fin, con cuyo efecto han nombrado Plenipotenciarios, a saber:

Su Excelencia el Presidente de Colombia, al señor don Luis Tanco Argáez, Enviado Extraordinario y Ministro Plenipotenciario de Colombia en el Perú; y

Su Excellencia el Presidente de la República Peruana, al señor doctor don Javier Prado y Ugarteche, Ministro de Estado en el despacho de relaciones exteriores, y al señor doctor don Hernán Velarde, Enviado Extraordinario y Ministro Plenipotenciario del Perú en Colombia, actualmente en Lima;

Quienes, después de exhibidos sus plenos poderes, que hallaron en buena y debida forma, han acordado lo siguiente:

I.

Los Gobiernos de Colombia y del Perú convienen en mantener el Statu quo en el territorio litigioso entre los dos países hasta la definitiva solución de la controversia, mediante el compromiso arbitral pactado en Bogotá el doce de setiembre de mil novecientos cinco.

II.

Para prevenir toda dificultad y peligrosos conflicton en la región del Putumayo, los Gobiernos de Colombia y del Perú acuerdan retirar de ese río y sus afluentes, durante esta situación transitoria, todas las guarniciones, autoridades civiles y militares, y aduanas que tienen ahí establecidas.

III.

Como consecuencia del carácter amigable de este acuerdo, las condiciones del tráfico comercial serán idénticas para colombianos y peruanos

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*) Le Gouvernement colombien s'est dédit, postérieurement, de la Convention.

**) Diario oficial (Bogotá) du 30 avril 1907. — Les ratifications de ce Traité n'ont pas été échangées.

en el Putumayo y sus afluentes, y los buqyes mercantes de unos y otros podrán navegarlos libremente.

IV.

Los Gobiernos de Colombia y del Perú se comprometen a ni innovar en el régimen que este acuerdo establece, mientras quede definitivamente resuelta la controversia de límites entre ambos países.

V.

Las precedentes estipulaciones no significan, en manera alguna, renuncia ni reconocimiento de derechos territoriales en favor de uno u otro país, siendo su objeto evitar conflictos en esa región, facilitando así la amistosa solución que los Gobiernos de ambas Repúblicas persiguen.

VI.

Este acuerdo, que sustituye en todas sus partes al de igual naturaleza celebrado en Bogotá, el doce de setiembre de mil novecientos cinco, será puesto inmediatamente en vigencia por una y otra parte, para lo cual se expedirán, sin demora, las órdenes del caso.

Para constancia, firman el presente, por duplicado, y los sellan con sus sellos particulares, en Lima, a los seis dias del mes de julio de mil novecientos seis.

(L. S.) *Luis Tanco Argáez.*
(L. S.) *J. Prado y Ugateche.*
(L. S.) *Hernán Velarde.*

130.

JAPON, CORÉE.

Arrangement concernant l'administration des forêts dans les districts situés le long du Yalu et du Tumen; signé le 19 octobre 1906.

Annual Report on Reforms in Korea. December 1908.

The Governments of Japan and Korea, regarding the forests in the districts along the Yalu and Tumen Rivers to be the richest source of timber on the Korean frontier, hereby agree on the terms mentioned below as to the management of those forests:

Article 1. The forests in the districts along the Yalu and Tumen Rivers shall be under the joint management of the Governments of Japan and Korea.

Article 2. The fund for the management shall be yen 1,200,000, one half of which shall be invested by each Government respectively.

Article 3. As to the management of the forests and the income and expenditure, a special account shall be created in order to make them clear.

The details of the account shall be notified to each Government once a year.

Article 4. The profit or loss of the undertaking shall be divided between the two Governments in proportion to the amounts of their investments.

Article 5. In case necessity arises to increase the investment stated in Article 2, it shall be done with the approval of both Governments.

Article 6. In case necessity arises to enact detailed rules in order to enforce the present Agreement, the duty of compiling such rules shall be submitted to the hands of commissioners appointed by both Governments.

Article 7. If, as the enterprise progresses, a necessity arises to change its organisation into a company, so as to enable the subjects of both the countries to join the undertaking, the required process shall be fixed by agreement between both Governments.

Hirobumi Ito (signed).
Resident General of the Empire of Japan.

Pak Che-soon (signed).
Prime Minister of the Empire of Korea.

Min Yung-ko (signed).
Minister of State for Financial Affairs of the Empire of Korea.

Kwan Cheung-Hyen (signed).
Minister of State for Agricultural, Commercial and Industrial Affairs of the Empire of Korea.

The 19th day of October, 1906.

131.

CANADA.

Loi modifiant la Loi sur l'immigration du 13 juillet 1906;*) du 27 avril 1907.

British and Foreign State Papers C (1911), p. 651.

Act of the Government of Canada to amend the Immigration Act.

[6 and 7 Edw. VII, c. 19.] Assented to April 27, 1907.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section 2 of the „Immigration Act," chapter 93, of the Revised Statutes, 1906, is amended by adding the following paragraph thereto:

(*k*) ‚stowaway' means a person who secretes himself and goes to sea in a vessel without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the vessel, or of any person entitled to give such consent."

2. Section 33 of „The Immigration Act," chapter 93 of the Revised Statutes, 1906, is repealed and the following substituted therefor:

„33. (1) Whenever in Canada an immigrant has, within two years of his landing in Canada, become a public charge, or an inmate of a penitentiary, jail, prison, or hospital or other charitable institution, it shall be the duty of the clerk or secretary of the municipality to forthwith notify the Minister, giving full particulars.

„(2) On receipt of such information the Minister may, in his discretion, after investigating the facts, order the deportation of such immigrant at the cost and charges of such immigrant if he is able to pay, and if not then at the cost of the municipality wherein he has last been regularly resident, if so ordered by the Minister, and if he is a vagrant or tramp, or there is no such municipality, then at the cost of the Department of the Interior.

„(3) When the immigrant is an inmate of a penitentiary, jail or prison, the Minister of Justice may, upon the request of the Minister of the Interior, issue an order to the warden or governor of such penitentiary, jail or prison, commanding him to deliver the said immigrant to the person named in the warrant issued by the Superintendent of Immigration as hereinafter provided, with a view to the deportation of such immigrant;

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*) V. N. R. G. 3. s. V, p. 886.

and the Superintendent of Immigration shall issue his warrant to such person as he may authorise to receive such immigrant from the warden or governor of the penitentiary, jail or prison, as the case may be, and such order and warrant may be in the form given in Schedule II to this Act.

„(4) Such order of the Minister of Justice shall be sufficient authority to the warden or governor of the penitentiary, jail or prison, as the case may be, to deliver such immigrant to the person named in the warrant of the Superintendent of Immigration as aforesaid, and such warden or governor shall obey such order; and such warrant of the Superintendent of Immigration shall be sufficient authority to the person named therein to detain such immigrant in his custody in any part of Canada until such immigrant is delivered to the authorized agent of the transportation company or companies which brought him into Canada, with a view to his deportation as herein provided.

„(5) Every immigrant deported under this section shall be carried by the same transportation company or companies which brought him into Canada to the port from which he came to Canada, without receiving the usual payment for such carriage.

„(6) In case he was brought into Canada by a railway company such company shall similarly convey him or secure his conveyance from the municipality or locality whence he is to be deported to the country whence he was brought.

„(7) Any immigrant deported under this section as having become an inmate of a penitentiary, jail or prison, who returns to Canada after such deportation may be brought before any Justice of the Peace in Canada; and such Justice of the Peace shall thereupon make out his warrant under his hand and seal for the re-committal of such immigrant to the penitentiary, jail or prison from which he was deported, or to any other penitentiary, jail or prison in Canada; and such immigrant shall be so re-committed accordingly and shall undergo a term of imprisonment equal to the residue of his sentence which remained unexpired at the time of his deportation."

3. The said Act is amended by inserting the following section immediately after Section 33:

„33A. (1) The master of any vessel bound for Canada, having on board thereof a stowaway, shall carry him to the port of destination of the vessel in Canada, and, if it is a port of entry where there is an immigration building with an immigration agent in charge thereof, shall hand the stowaway over to the immigration agent, who shall detain him in safe keeping until the vessel is ready to leave the port, when the stowaway shall be placed by the immigration agent in the custody of, and shall be received by, the master of the vessel on board of it.

„(2) Any vessel entering Canada having on board a stowaway and destined for a port in Canada which is not a port of entry, or at which, if it is a port of entry, there is no building for the reception of immi-

grants with an immigration agent in charge, shall carry the stowaway to that port, and on arrival thereat the master of the vessel shall lay an information against the stowaway before a Justice of the Peace charging him with being a stowaway within the meaning of this Act, and the Justice shall on his summary conviction of the stowaway order him to be detained in the common jail or other prison for the port, until the vessel is ready to leave the port, when the stowaway shall be placed by any peace officer in the custody of and shall be received by, the master of the vessel on board of it."

„(3) The master of the vessel shall carry to the port from which the vessel came to Canada, without charge, any stowaway who has been returned to the custody of the master and received by him on board of the vessel as provided by this section."

4. The following schedule is added to the said Act as Schedule two:*)

*) Non imprimé.

NOUVEAU

RECUEIL GÉNÉRAL

DE

TRAITÉS

ET

AUTRES ACTES RELATIFS AUX RAPPORTS
DE DROIT INTERNATIONAL.

CONTINUATION DU GRAND RECUEIL

DE

G. FR. DE MARTENS

PAR

Heinrich Triepel

Professeur de droit public à l'Université de Kiel

Associé de l'Institut de droit international.

TROISIÈME SÉRIE.

TOME VI.

TROISIÈME LIVRAISON.



LEIPZIG

LIBRAIRIE DIETERICH

THEODOR WEICHER

1913

132.

PORTUGAL, NICARAGUA.

Convention d'arbitrage; signée à Lisbonne, le 17 juillet 1909.*)

Diario do Governo 1912. No. 224.

Sua Majestade El-Rei de Portugal e dos Algarves e Sua Excelência o Presidente da República de Nicarágua, desejando, de acôrdo com os princípios enunciados nos artigos 15.º a 19.º da Convenção para solução pacífica dos conflitos internacionais, assinada na Haya em 29 de Julho de 1899,**) celebrar uma Convenção de arbitragem, nomearam para tal fim, por seus Plenipotenciários, a saber:

Sua Majestade o Rei de Portugal e dos Algarves ao Sr. Carlos Roma du Bocage, Coronel do Estado Maior de Engenharia, Par do Reino, Seu Ajudante de Campo Honorário, Ministro e Secretário de Estado dos Negócios Estrangeiros, Grande Oficial da Rial Ordem Militar de S. Bento de Avis, Comendador da Ordem de S. Tiago, do Mérito Scientífico, Literário e Artístico, etc.;

Sua Excelência o Presidente da República de Nicarágua ao Sr. Dr.

Su Excelencia el Presidente de la República de Nicaragua y Su Majestad El-Rey de Portugal y de los Algarves, deseando, de acuerdo con los principios enunciados en los artículos 15 á 19 de la Convención para la solución pacifica de los conflictos internacionales firmada en La Haya en 29 de Julio de 1899,**) celebrar una Convención de Arbitraje, han nombrado para tal fin por sus Plenipotenciarios, á saber:

Su Excelencia el Presidente de la República de Nicaragua al Señor Doctor Don Simon Planas Suarez, Comendador de la Orden de Nuestra Señora de la Concepción de Vila Viçosa, Caballero de la Real Orden Militar de Nuestro Señor Jesucristo, condecorado con varias otras Ordenes estranjeras, su Enviado Extraordinario y Ministro Plenipotenciario ante Su Majestad El-Rey de Portugal y de los Algarves;

Su Majestad El-Rey de Portugal y de los Algarves, al Señor Carlos

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*) Les ratifications ont été échangées à Lisbonne, le 19 septembre 1912.
**) V. N. R. G. 2. s. XXVI, p. 920.

Don Simon Planas Suarez, Comendador da Ordem de Nossa Senhora da Conceição de Vila Viçosa, Cavaleiro da Ordem Militar de Nosso Senhor Jesus Cristo, condecorado com várias Ordens estrangeiras, seu Enviado Extraordinário e Ministro Plenipotenciário junto de Sua Majestade o Rei de Portugal e dos Algarves;

Os quais, depois de haverem recíprocamente comunicado os seus plenos poderes, achados em boa e devida forma, convieram nos artigos seguintes:

Artigo I.

As divergências de carácter jurídico ou relativas à interpretação dos tratados vigentes entre as duas Altas Partes Contratantes, que venham a produzir-se entre elas, e não possam resolver-se por via diplomática, serão submetidas ao Tribunal Permanente de Arbitragem instituído na Haya pela Convenção de 29 de julho de 1899, comtanto que não entendam com os vitais interesses, a independência ou a honra das duas Partes Contratantes, ou os interesses da terceira Potência.

Artigo II.

Em cada caso particular e antes de recorrerem ao Tribunal Permanente de Arbitragem assinarão as Altas Partes Contratantes um compromisso especial que determine claramente o assunto em litígio, o alcance das faculdades atribuídas ao árbitro, e os prazos que tenham de adoptar-se no que respeita à constituição do Tribunal e às normas do processo.

Fica entendido que êsse compromisso especial será, por parte da República de Nicarágua, feito segundo

Roma du Bocage, Coronel del Estado Mayor de Ingenieria, Par del Reino, Su Ajudante de Campo Honorario, Ministro y Secretário de Estado de Negócios Estranjeros, Gran Oficial de la Real Orden Militar de San Benito de Aviz, Comendador de la Orden de Santiago, del mérito scientifico, literario y artistico, etc.;

Los cuales, después de haberse comunicado recíprocamente sus respectivos plenos poderes, hallados en buena y debida forma, convinieron en los artículos siguientes:

Artículo I.

Las divergencias de carácter jurídico ó relativas á la interpretación de los tratados vigentes entre las dos Altas Partes Contratantes, que lleguen á producir-se entre éllas y que no puedan resolver-se por la via diplomática, serán sometidas al Tribunal Permanente de Arbitraje instituido en La Haya por la Convención de 29 de Julio de 1899, con tal que no afecten ni los interesses vitales, la independencia ó la honra de las dos Partes Contratantes, ó los interesses de tercera Potencia.

Artículo II.

En cada caso particular, y antes de recurrir al Tribunal Permanente de Arbitraje, firmárán las Altas Partes Contratantes un compromisso especial que determine claramente el asunto en litigio, la extensión de las facultadas atribuidas al árbitro y los términos que tengan que adoptar-se en lo que respecta á la constitución del Tribunal y á las normas del proceso.

Quede entendido que a ese compromiso especial será, por parte de la República de Nicarágua, hecho

as formalidades estabelecidas nas suas leis constitucionais.

Artigo III.

A presente Convenção subsistirá por espaço de cinco anos, contados do dia da troca das ratificações, e, se não for denunciada por qualquer das duas Partes Contratantes seis meses antes de expirar o dito prazo, continuará tem vigor durante um ano e assim sucessivamente.

Artigo IV.

A presente Convenção será ratificada pelas duas Altas Partes Contratantes em harmonia com as suas leis constitucionais.

As ratificações serão trocadas em Lisboa, no mais breve praso possível.

Em testemunho do que os respectivos Plenipotenciários assinaram e selaram a presente Convenção.

Feita em duplicado, nas línguas portuguesa e espanhola, em Lisboa, aos dezessete de Julho de mil novecentos e nove.

(L. S.) *Carlos Roma du Bocage.*

según las formalidades estabelecidas en sus leys constitucionales.

Artículo III.

La presente Convención estará en vigor por espacio de cinco años, contados desde el dia del canje de las ratificaciones, y, si no fuera denunciada, por cualquiera de las dos Partes Contratantes, seis meses antes de expirar dicho plazo, continuará en vigor por un año, y asi sucesivamente.

Artículo IV.

La presente Convención será ratificada por las dos Altas Partes Contratantes en armonia con sus leys constitucionales.

Las ratificaciones se canjearán en Lisboa en el más breve plazo possible.

En testimonio de lo cual los respectivos Plenipotenciarios firmaron y sellaron la presente Convención.

Hecha en duplicado en las lenguas española y portuguesa en Lisboa, á los diezisiete de julio de mil novecientos y nueve.

(L. S.) *Simon Planas Suarez.*

133.

RUSSIE, ESPAGNE.

Convention d'arbitrage; signée à St.-Pétersbourg, le 2/15 août 1910.*)

Traités généraux d'arbitrage communiqués au Bureau international de la Cour permanente d'arbitrage I. La Haye 1911.

Convention.

Sa Majesté l'Empereur de toutes les Russies et Sa Majesté le Roi d'Espagne, désirant régler autant que possible par la voie de l'arbitrage les différends qui pourraient s'élever entre Leurs Pays, ont décidé de conclure, à cet effet, une Convention et ont nommé pour Leurs Plénipotentiaires, savoir:

Sa Majesté L'Empereur de toutes les Russies:

Monsieur Serge Sazonow, en fonctions de Maître de la Cour Impériale, Son Conseiller d'Etat Actuel et Gérant du Ministère des Affaires Etrangères;

et Sa Majesté le Roi d'Espagne:

Son Excellence Don Cipriano Muñoz y Manzano, Comte de la Viñaza, Son Chambellan et Son Ambassadeur Extraordinaire et Plénipotentiaire près la Cour Impériale de Russie,

lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Article 1.

Les Hautes Parties Contractantes s'engagent à soumettre à la Cour Permanente d'Arbitrage, établie à la Haye par la Convention du 17/29 juillet 1899,**) les différends qui viendraient à s'élever entre Elles dans les cas énumérés à l'article 3, pour autant qu'ils ne touchent ni à l'indépendance, ni à l'honneur, ni aux intérêts vitaux, ni à l'exercice de la souveraineté des pays contractants et qu'une solution amiable n'ait pu être obtenue par des négociations diplomatiques directes ou par toute autre voie de conciliation.

Article 2.

Il appartient à chacune des Hautes Parties Contractantes d'apprécier si le différend qui se sera produit met en cause ses intérêts vitaux, son honneur, son indépendance ou l'exercice de sa souveraineté et, par con-

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*) Les ratifications ont été échangées à St.-Pétersbourg, le 9/22 novembre 1910. V. Gaceta de Madrid 1911, No. 80.

**) V. N. R. G. 2. s. XXVI, p. 920.

séquent, est de nature à être compris parmi ceux qui, d'après l'article précédent, sont exceptés de l'arbitrage obligatoire.

Article 3.

L'arbitrage sera obligatoire entre les Hautes Parties Contractantes:

I. En cas de contestations concernant l'application ou l'interprétation de toute Convention conclue ou à conclure entre les Hautes Parties Contractantes et relative:

1) aux matières de droit privé international;

2) au régime des sociétés;

3) aux matières de procédure, soit civile, soit pénale et à l'extradition.

II. En cas de contestations concernant des réclamations pécuniaires du chef de dommages, lorsque le principe de l'indemnité est reconnu par les Parties.

Seront exclus de la solution arbitrale les différends qui naîtraient éventuellement au sujet de l'interprétation ou de l'application d'une Convention conclue ou à conclure entre les Hautes Parties Contractantes et à laquelle des tierces Puissances auraient participé ou adhéré.

Article 4.

La présente Convention recevrait son application même si les contestations qui viendraient à s'élever avaient leur origine dans des faits antérieurs à sa conclusion.

Article 5.

Lorsqu'il y aura lieu un arbitrage entre Elles, les Hautes Parties Contractantes, à défaut de clauses compromissoires contraires, se conformeront, pour tout ce qui concerne la désignation des arbitres et la procédure arbitrale, aux dispositions établies par l'article 52 de la Convention signée à la Haye, le 5/18 octobre 1907,*) pour le règlement pacifique des conflits internationaux, sauf en ce qui concerne les points indiqués ci-après.

Article 6.

Aucun des arbitres ne pourra être sujet des Etats signataires de la présente Convention, ni être domicilié dans leurs territoires, ni être intéressé dans les questions qui feront l'objet de l'arbitrage.

Article 7.

La sentence arbitrale contiendra l'indication des délais dans lesquels elle devra être exécutée.

Article 8.

La présente Convention est conclue pour la durée de dix ans. Elle entrera en vigueur un mois après l'échange des ratifications. Dans le cas où aucune des Hautes Parties contractantes n'aurait notifié, six mois avant

*) V. N. R. G. 3. s. III, p. 394.

la fin de la dite période, son intention d'en faire cesser les effets, la Convention demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Hautes Parties Contractantes l'aura dénoncée.

Article 9.

La présente Convention sera ratifiée dans le plus bref délai possible et les ratifications seront échangées à St.-Pétersbourg.

En foi de quoi les Plénipotentiaires ont signé la présente Convention et l'ont revêtue du cachet de leurs armes.

Fait en double à St.-Pétersbourg, le 2/15 août 1910.

(L. S.) (signé) *Sazonow.*
(L. S.) (signé) *Comte de la Viñaza.*

134.

RUSSIE, TURQUIE.

Compromis en vue de terminer, par voie d'arbitrage, le différend relatif aux dommages-intérêts réclamés par la Russie pour le retard apporté dans le payement des indemnités dues aux particuliers russes lésés par la guerre de 1877—1878; signé à Constantinople, le 22 juillet/4 août 1910.*)

Publication du Bureau international de la Cour permanente d'arbitrage. La Haye 1912.

Compromis d'Arbitrage entre le Gouvernement Impérial Russe et le Gouvernement Impérial Ottoman.

Le Gouvernement Impérial Russe et le Gouvernement Impérial Ottoman, consignataires de la Convention de La Haye du 18 octobre 1907**) pour le règlement pacifique des conflits internationaux:

Considérant les dispositions de l'Article 5 du Traité signé à Constantinople entre la Russie et la Turquie, le 27 janvier/8 février 1879,***) ainsi conçu:

„Les réclamations des sujets et institutions russes en Turquie à titre „d'indemnité pour les dommages subis pendant la guerre seront payées à „mesure qu'elles seront examinées par l'Ambassade de Russie à Constan„tinople et transmises à la Sublime Porte".

*) V. la Sentence arbitrale du 11 novembre 1912; ci-dessous No. 135.
) V. N. R. G. 3. s. III, p. 360. *) V. N. R. G. 2. s. III, p. 468.

„La totalité de ces réclamations ne pourra en aucun cas dépasser le „chiffre de 26,750,000 francs“.

„Le terme d'une année après l'échange des ratifications est fixé „comme date à partir de laquelle les réclamations pourront être présentées „à la Sublime Porte, et celui de deux ans comme date après laquelle les „réclamations ne seront plus admises“;

Considérant l'explication additionnelle insérée au Protocole de même date portant:

„Quant au terme d'une année fixé par cet Article comme date à „partir de laquelle les réclamations pourront être présentées à la Sublime „Porte, il est entendu qu'une exception y sera faite en faveur de la récla- „mation de l'Hôpital Russe s'élevant à la somme de 11,200 livres sterlings“;

Considérant qu'un désaccord s'est élevé entre le Gouvernement Impérial Russe et le Gouvernement Impérial Ottoman relativement aux conséquences de droit résultant des dates auxquelles le Gouvernement Impérial Ottoman a effectué, sur les montants des indemnités régulièrement présentées en exécution dudit Article 5, les payements ci-après, savoir:

	livr. turq.	pi.	par.
En 1884.	50,000	—	—
En 1889.	50,000	—	—
En 1893.	75,000	—	—
En 1894.	50,000	—	—
En 1902.	42,438	67	$\frac{22}{40}$

Considérant que le Gouvernement Impérial Russe soutient que le Gouvernement Impérial Ottoman est responsable de dommages-intérêts à l'égard des indemnitaires russes pour le retard apporté au règlement de sa dette;

Considérant que le Gouvernement Impérial Ottoman conteste, tant en fait qu'en droit, le bien-fondé de la prétention du Gouvernement Impérial Russe;

Considérant que le litige n'a pu être réglé par la voie diplomatique;

Et ayant résolu, conformément aux stipulations de ladite Convention de La Haye, de terminer ce différend en soumettant la question à un Arbitrage;

Ont, à cet effet, autorisé leurs Représentants ci-dessous désignés, savoir:

pour la Russie,

Son Excellence Monsieur Tcharykow, Ambassadeur de Sa Majesté l'Empereur de Russie à Constantinople;

pour la Turquie,

Son Excellence Rifaat Pacha, Ministre des Affaires étrangères,

A conclure le Compromis suivant:

Article Premier.

Les Puissances en litige décident que le Tribunal Arbitral auquel la question sera soumise en dernier ressort sera composé de cinq membres, lesquels seront désignés de la manière suivante:

Chaque Partie, aussitôt que possible, et dans un délai qui n'exédera pas deux mois à partir de la date de ce Compromis, devra nommer deux Arbitres, et les quatre Arbitres ainsi désignés choisiront ensemble un Sur-Arbitre. Dans le cas où les quatre Arbitres n'auront pas, dans le délai de deux mois après leur désignation, choisi à l'unanimité ou à la majorité un Sur-Arbitre, le choix du Sur-Arbitre est confié à une Puissance tierce désignée de commun accord par les Parties. Si, dans un délai de deux autres mois, l'accord ne s'établit pas à ce sujet, chaque Partie désigne une Puissance différente et le choix du Sur-Arbitre est fait de concert par les Puisssances ainsi désignées.

Si, dans un délai de deux autres mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'elles présente deux candidats pris sur la liste des membres de la Cour Permanente en dehors des membres de ladite Cour désignés par ces deux Puissances ou par les Parties, et n'étant les nationaux ni des uns ni des autres. Ces candidats ne pourront, en plus, appartenir à la nationalité des Arbitres nommés par les Parties dans le présent Arbitrage. Le sort détermine lequel des candidats ainsi présentés sera le Sur-Arbitre.

Le tirage au sort sera effectué par les soins du Bureau International de la Cour Permanente de La Haye.

Art. 2.

Les Puissances en litige se feront représenter auprès du Tribunal Arbitral par des agents, conseils ou avocats, en conformité des prévisions de l'Article 62 de la Convention de La Haye de 1907 pour le règlement pacifique des conflits internationaux.

Ces agents, conseils ou avocats seront désignés par les Parties à temps pour que le fonctionnement de l'Arbitrage ne subisse aucun retard.

Art. 3.

Les questions en litige et sur lesquelles les Parties demandent au Tribunal Arbitral de prononcer une décision définitive sont les suivantes:

I. Oui ou non, le Gouvernement Impérial Ottoman est-il tenu de payer aux indemnitaires russes des dommages-intérêts à raison des dates auxquelles ledit Gouvernement a procédé au payement des indemnités fixées en exécution de l'article 5 du Traité du 27 janvier/8 février 1879, ainsi que du Protocole de même date?

II. En cas de décision affirmative sur la première question, quel serait le montant de ces dommages-intérêts?

Art. 4.

Le Tribunal Arbitral, une fois constitué, se réunira à La Haye à une date qui sera fixée par les Arbitres, et dans le délai d'un mois à partir de la nomination du Sur-Arbitre. Après le règlement — en conformité avec le texte et l'esprit de la Convention de La Haye de 1907 — de toutes les questions de procédure qui pourraient surgir et qui ne seraient pas prévues par le présent Compromis, ledit Tribunal ajournera sa prochaine séance à la date qu'il fixera.

Toutefois, il reste convenu que le Tribunal ne pourra ouvrir les débats sur les questions en litige ni avant les deux mois, ni plus tard que les trois mois qui suivront la remise du Contre-Mémoire ou de la Contre-Réplique prévus par l'article 6 et éventuellement des conclusions stipulées à l'article 8.

Art. 5.

La procédure arbitrale comprendra deux phases distinctes: l'instruction écrite et les débats qui consisteront dans le développement oral des moyens des Parties devant le Tribunal.

La seule langue dont fera usage le Tribunal et dont l'emploi sera autorisé devant lui sera la langue française.

Art. 6.

Dans le délai de huit mois au plus après la date du présent Compromis, le Gouvernement Impérial Russe devra remettre à chacun des membres du Tribunal Arbitral, en un exemplaire, et au Gouvernement Impérial Ottoman, en dix exemplaires, les copies complètes écrites ou imprimées, de son Mémoire contenant toutes pièces à l'appui de sa demande et pouvant se référer aux deux questions visées par l'article 3.

Dans un délai de huit mois au plus tard après cette remise, le Gouvernement Impérial Ottoman devra remettre à chacun des membres du Tribunal, ainsi qu'au Gouvernement Impérial Russe, en autant d'exemplaires que ci-dessus, les copies complètes, manuscrites ou imprimées, de son Contre-Mémoire, avec toutes pièces à l'appui, mais pouvant se borner à la question n⁰. I de l'article 3.

Dans le délai d'un mois après cette remise, le Gouvernement Impérial Russe notifiera au Président du Tribunal Arbitral s'il a l'intention de présenter une Réplique. Dans ce cas, il aura un délai de trois mois au plus, à compter de cette notification, pour communiquer ladite Réplique dans les mêmes conditions que le Mémoire. Le Gouvernement Impérial Ottoman aura alors un délai de quatre mois, à compter de cette communication, pour présenter sa Contre-Réplique, dans les mêmes conditions que le Contre-Mémoire.

Les délais fixés par le présent article pourront être prolongés de commun accord par les Parties, ou par le Tribunal, quand il le juge nécessaire, pour arriver à une décision juste.

Mais le Tribunal ne prendra pas en considération les Mémoires, Contre-Mémoires ou autres communications qui lui seront présentées par les Parties après l'expiration du dernier délai par lui fixé.

Art. 7.

Si, dans les mémoires ou autres pièces échangés, l'une ou l'autre Partie s'est référée ou a fait allusion à un document ou papier en sa possession exclusive; dont elle n'aura pas joint la copie, elle sera tenue, si l'autre Partie le demande, de lui en donner la copie, au plus tard dans les trente jours.

Art. 8.

Dans le cas où le Tribunal Arbitral aurait affirmativement statué sur la question posée au n⁰. I de l'article 3, il devra, avant d'aborder l'examen du n⁰. II du même article, donner aux Parties de nouveaux délais ne pouvant être inférieurs à trois mois chacun, pour présenter et échanger leurs conclusions et arguments à l'appui.

Art. 9.

Les décisions du Tribunal sur la première, et éventuellement sur la seconde question en litige, seront prononcées, autant que possible, dans le délai d'un mois après la clôture par le Président des débats relatifs à chacune de ces questions.

Art. 10.

Le jugement du Tribunal Arbitral sera définitif et devra être exécuté strictement et sans aucun retard.

Art. 11.

Chaque Partie supporte ses propres frais et une part égale des frais du Tribunal.

Art. 12.

En tout ce qui n'est pas prévu par le présent Compromis, les stipulations de la Convention de La Haye de 1907 pour le règlement pacifique des Conflits internationaux seront appliquées à cet Arbitrage, à l'exception, toutefois, des articles dont l'acceptation a été réservée par le Gouvernement Impérial Ottoman.

Fait à Constantinople, le 22 juillet/4 août 1910.

(Signé): *N. Tcharykow.*
(Signé): *Rifaat.*

135.

RUSSIE, TURQUIE.

Sentence du Tribunal d'arbitrage constitué, en vertu du Compromis d'arbitrage signé le 22 juillet/4 août 1910,*) pour mettre fin au différends relatifs aux indemnités de guerre; rendue à la Haye, le 11 novembre 1912.

Publication du Bureau international de la Cour permanente d'arbitrage. La Haye 1912.

Sentence rendue le 11 novembre 1912 par le Tribunal arbitral constitué en vertu du Compromis d'Arbitrage signé à Constantinople entre la Russie et la Turquie le 22 juillet/4 août 1910.

Par un Compromis signé à Constantinople le 22 juillet/4 août 1910, le Gouvernement Impérial de Russie et le Gouvernement Impérial Ottoman sont convenus de soumettre à un Tribunal arbitral la décision définitive des questions suivantes:

„I. Oui ou non, le Gouvernement Impérial Ottoman est-il tenu „de payer aux indemnitaires russes des dommages-intérêts à raison „des dates auxquelles ledit gouvernement a procédé au payement „des indemnités fixées en exécution de l'article 5 du traité du „27 janvier/8 février 1879, ainsi que du Protocole de même date?“

„II. En cas de décision affirmative sur la première question, „quel serait le montant de ces dommages-intérêts?“

Le Tribunal arbitral a été composé de

Son Excellence Monsieur Lardy, Docteur en droit, Membre et ancien Président de l'Institut de droit international, Envoyé extraordinaire et Ministre plénipotentiaire de Suisse à Paris, Membre de la Cour Permanente d'Arbitrage, Surarbitre;

Son Excellence le Baron Michel de Taube, Adjoint du Ministre de l'Instruction publique de Russie, Conseiller d'Etat actuel, Docteur en droit, associé de l'Institut de droit international, Membre de la Cour Permanente d'Arbitrage;

Monsieur André Mandelstam, Premier Drogman de l'Ambassade Impériale de Russie à Constantinople, Conseiller d'Etat, Docteur en droit international, associé de l'Institut de droit international;

Herante Abro Bey, Licencié en droit, Conseiller légiste de la Sublime-Porte;

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*) V. ci-dessus, No. 134.

et Ahmed Réchid Bey, Licencié en droit, Conseiller légiste de la Sublime-Porte;

Monsieur Henri Fromageot, Docteur en droit, associé de l'Institut de droit international, Avocat à la Cour d'Appel de Paris, a fonctionné comme Agent du Gouvernement Impérial Russe et a été assisté de

Monsieur Francis Rey, Docteur en droit, Secrétaire de la Commission Européenne du Danube, en qualité de Secrétaire;

Monsieur Edouard Clunet, Avocat à la Cour d'Appel de Paris, Membre et ancien Président de l'Institut de droit international, a fonctionné comme Agent du Gouvernement Impérial Ottoman et a été assisté de

Monsieur Ernest Roguin, Professeur de Législation comparée à l'Université de Lausanne, Membre de l'Institut de droit international, en qualité de Conseil du Gouvernement Ottoman;

Monsieur André Hesse, Docteur en droit, Avocat à la Cour d'Appel de Paris, Député, en qualité de Conseil du Gouvernement Ottoman;

Youssouf Kémâl Bey, Professeur à la Faculté de droit de Constantinople, ancien Député, Directeur de la Mission Ottomane d'études juridiques, en qualité de Conseil du Gouvernement Ottoman;

Monsieur C. Campinchi, Avocat à la Cour d'Appel de Paris, en qualité de Secrétaire de l'Agent du Gouvernement Ottoman.

Le Baron Michiels van Verduynen, Secrétaire général du Bureau international de la Cour Permanente d'Arbitrage, a fonctionné comme Secrétaire général et

le Jonkheer W. Rõell, Premier secrétaire du Bureau international de la Cour, a pourvu au Secrétariat.

Après une première séance à La Haye le 15 février 1911, pour régler certaines questions de procédure, les Mémoire, Contre-Mémoire, Réplique et Contre-Réplique ont été dûment échangés entre les Parties et communiqués aux Arbitres, qui ont respectivement déclaré, ainsi que les Agents des Parties, renoncer à demander des compléments de renseignements.

Le Tribunal arbitral s'est réuni de nouveau à La Haye les 28, 29, 30, 31 octobre, 1er, 2, 5 et 6 novembre 1912,

et après avoir entendu les conclusions orales des Agents et Conseils des Parties, il a rendu la Sentence suivante:

Question préjudicielle.

Vu la demande préjudicielle du Gouvernement Impérial Ottoman tendant à faire déclarer la réclamation du Gouvernement Impérial Russe non recevable sans examen du fond, le Tribunal

attendu que le Gouvernement Impérial Ottoman base cette demande préjudicielle, dans ses conclusions écrites, sur le fait „que, dans toute la „correspondance diplomatique, ce sont les sujets russes individuellement „qui, bénéficiant d'une stipulation faite en leurs noms, soit dans les „Préliminaires de Paix signés à San Stéfano le 19 février/3 mars 1878, „soit par l'article 5 du Traité de Constantinople du 27 janvier/8 février „1879, soit par le Protocole du même jour, ont été les créanciers directs

„des sommes capitales à eux adjugées, et que leurs titres à cet égard „ont été constitués par les décisions nominatives prises par la Commission „*ad hoc* réunie à l'Ambassade de Russie à Constantinople, décisions nomi„natives qui ont été notifiées à la Sublime-Porte;

„Que, dans ces circonstances, le Gouvernement Impérial de Russie „aurait dû justifier de la survivance des droits de chaque indemnitaire, „et de l'individualité des personnes aptes à s'en prévaloir aujourd'hui, „cela d'autant plus que la cession de certains de ces droits a été com„muniquée au Gouvernement Impérial Ottoman";

„Que le Gouvernement Impérial de Russie aurait dû agir de même, „dans l'hypothèse aussi où l'Etat russe aurait été le créancier direct unique „des indemnités; cela parce que le dit Gouvernement ne saurait méconnaître „son devoir de transmettre aux indemnitaires ou à leurs ayants-cause les „sommes qu'il pourrait obtenir dans le procès actuel à titre de dommages„intérêts moratoires, les indemnitaires se présentant, dans cette supposition, „comme les bénéficiaires, sinon comme les créanciers, de la stipulation „faite dans leur intérêt;

„Que cependant, le Gouvernement Impérial de Russie n'a fourni „aucune justification quant à la personnalité des indemnitaires ou de „leurs ayants-droit, ni quant à la survivance de leurs prétentions". (Contre-Réplique Ottomane p. 81 et 82).

Attendu que le Gouvernement Impérial de Russie soutient, au contraire, dans ses conclusions écrites,

„Que la dette stipulée dans le Traité de 1879 n'en est pas moins „une dette l'Etat à Etat; qu'il n'en saurait être autrement de la respon„sabilité résultant de l'inexécution de la dite dette; qu'en conséquence le „Gouvernement Impérial Russe est seul qualifié pour en donner quittance „et, par là-même, pour toucher les sommes destinées à être payées aux „indemnitaires; qu'au surplus, le Gouvernement Impérial Ottoman ne „conteste pas au Gouvernement Impérial Russe la qualité de créancier „direct de la Sublime-Porte;

„Que le Gouvernement Impérial Russe agit en vertu du droit qui „lui est propre de réclamer des dommages-intérêts en raison de l'inexé„cution d'un engagement pris vis-à-vis de lui directement;

„Qu'il en justifie pleinement en établissant cette inexécution, qui „n'est d'ailleurs pas contestée, et en apportant son titre, qui est le „Traité de 1879 . . . .;

„Que la Sublime-Porte, nantie de la quittance à elle régulièrement „délivrée par le Gouvernement Impérial Russe, n'a pas à s'immiscer dans „la répartition des sommes distribuées ou à distribuer par ledit Gouver„nement entre ses sujets indemnitaires; que c'est là une question d'ordre „intérieur, dont le Gouvernement Impérial Ottoman n'a pas à connaître"; (Réplique Russe pages 49 et 50).

Considérant que l'origine de la réclamation remonte à une guerre, fait international au premier chef; que la source de l'indemnité est non

seulement un Traité international mais un Traité de paix et les accords ayant pour objet l'exécution de ce Traité de paix; que ce traité et ces accords sont intervenus entre la Russie et la Turquie réglant entre elles, d'Etat à Etat, comme Puissances publiques et souveraines, une question de droit des gens; que les préliminaires de paix ont fait rentrer les 10 millions de roubles attribués à titre de dommages et intérêts aux sujets russes victimes des opérations de guerre en Turquie au nombre des indemnités „que S. M. l'Empereur de Russie réclame et que la Sublime-„Porte s'est engagée à lui rembourser"; que ce caractère de créance d'Etat à Etat a été confirmé par le fait que les réclamations devaient être examinées par une Commission exclusivement russe; que le Gouvernement Impérial de Russie a conservé la haute main sur l'attribution, l'encaissement et la distribution des indemnités, en sa qualité de seul créancier; qu'il importe peu de savoir si, en théorie, la Russie a agi en vertu de son droit de protéger ses nationaux ou à un autre titre, du moment où c'est envers le Gouvernement Impérial Russe seul que la Sublime-Porte a pris ou a subi l'engagement réclamé d'elle;

Considérant que l'exécution des engagements est, entre Etats comme entre particuliers, le plus sûr commentaire du sens de ces engagements;

que, lors d'une tentative de l'administration Ottomane des Finances de percevoir, en 1885, sur une quittance donnée par l'Ambassade de Russie à Constantinople lors du payement d'un acompte, le timbre proportionnel exigé des particuliers par la législation ottomane, la Russie a immédiatement protesté et soutenu „que la dette était contractée par le Gou-„vernement Ottoman vis-à-vis celui de Russie" . . . . et „non pas une „simple créance de particuliers découlant d'un engagement ou contrat privé" (Note verbale russe du 15/27 mars 1885, Mémoire Russe, annexe n⁰ 19 page 19); que la Sublime-Porte n'a pas insisté, et qu'en fait, les deux Parties ont constamment, dans leur pratique de plus de quinze ans, agi comme si la Russie était la créancière de la Turquie à l'exclusion des indemnitaires privés;

que la Sublime-Porte a payé sans aucune exception tous les versements successifs sur la seule quittance de l'Ambassade de Russie à Constantinople agissant pour compte de son Gouvernement;

que la Sublime-Porte n'a jamais demandé, lors des versements d'acomptes, si les bénéficiaires existaient toujours ou quels étaient leurs ayants-cause du moment, ni d'après quelles normes les acomptes étaient répartis entre eux, laissant cette mission au seul Gouvernement Impérial de Russie;

Considérant que la Sublime-Porte prétend, au fond, dans le litige actuel, précisément être entièrement libérée par les payements qu'elle a, en fait, effectués en dehors de toute participation des indemnitaires entre les mains du seul Gouvernement Impérial de Russie représenté par son ambassade;

Par ces motifs:

Arrête

la demande préjudicielle est écartée.

Statuant ensuite

Sur le fond

le Tribunal arbitral a rendu la Sentence suivante:

I.

En fait.

Dans le Protocole signé à Andrinople le 19/31 janvier 1878*) et qui a mis fin par un armistice aux hostilités entre la Russie et la Turquie, se trouve la stipulation suivante:

„5⁰. La Sublime Porte s'engage à dédommager la Russie „des frais de la guerre et des pertes qu'elle a dû s'imposer. „Le mode, soit pécuniaire, soit territorial ou autre, de cette „indemnité sera réglé ultérieurement".

L'article 19 des Préliminaires de paix signés à San Stefano le 19 février/3 mars 1878**) est ainsi conçu:

„Les indemnités de guerre et les pertes imposées à la Russie „que S. M. l'Empereur de Russie réclame et que la Sublime-Porte „s'est engagée à lui rembourser se composent de: a) 900 millions „de roubles de frais de guerre .... b) 400 millions de roubles „de dommages infligés au littoral méridional .... c) 100 millions „de roubles de dommages causés au Caucase .... d) *dix millions „de roubles de dommages et intérêts aux sujets et institutions russes „en Turquie:* total 1400 millions de roubles".

Et plus loin: *„Les dix millions de roubles réclamés comme „indemnité pour les sujets et institutions russes en Turquie seront „payés à mesure que les réclamations des intéressés seront examinées „par l'ambassade de Russie à Constantinople et transmises à la „Sublime-Porte"*.

Au congrès de Berlin, à la séance du 2 juillet 1878, protocole N⁰. 11, il fut entendu que les 10 millions de roubles dont il s'agit ne regardaient pas l'Europe, mais seulement les deux Etats intéressés, et qu'ils ne seraient pas insérés dans le traité entre les Puissances représentées à Berlin.***) En conséquence la question fut reprise directement entre la Russie et la Turquie, qui stipulèrent, dans le traité définitif de paix signé à Constantinople le 27 janvier/8 février 1879,†) la disposition suivante:

„Art. V. Les réclamations des sujets et institutions russes en „Turquie à titre d'indemnité pour les dommages subis pendant la „guerre seront payées à mesure qu'elles seront examinées par l'am-

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*) V. N. R. G. 2. s. III, p. 240. **) V. ibid. p. 252.
***) V. ibid. p. 379. †) V. ci-dessus, p. 648, note ***

„bassade de Russie à Constantinople et transmises à la Sublime-„Porte. La totalité de ces réclamations ne pourra, en aucun cas, „dépasser le chiffre de vingt-six millions sept cent cinquante mille „francs. Le terme d'une année après l'échange des ratifications est „fixé comme date à partir de laquelle les réclamations pourront être „présentées à la Sublime-Porte, et celui de deux ans comme date „après laquelle les réclamations ne seront plus admises.“

Le même jour, 27 janvier/8 février 1879, dans le Protocole de signature du traité de paix, le Plénipotentiaire russe prince Lobanow déclara que la somme de 26,750,000 francs spécifiée à l'article V:

„constitue un maximum auquel la totalité des réclamations ne „pourra vraisemblablement jamais atteindre; il ajoute qu'une com-„mission ad hoc sera instituée à l'ambassade de Russie pour examiner „scrupuleusement les réclamations qui lui seront présentées, et que, „d'après les instructions de son Gouvernement, un délégué ottoman „pourra prendre part à l'examen de ces réclamations“.

Les ratifications du traité de paix ont été échangées à Saint-Pétersbourg le 9/21 février 1879.

La commission instituée à l'ambassade de Russie et composée de trois fonctionnaires russes commença aussitôt ses travaux. Le commissaire ottoman s'abstint généralement d'y prendre part. Le montant des pertes des sujets russes fut fixé par la commission à 6 millions 186,543 francs. Elles furent successivement notifiées à la Sublime-Porte entre le 22 octobre/3 novembre 1880 et le 29 janvier/10 février 1881; leur montant ne fut pas contesté et l'ambassade de Russie réclama le payement en même temps qu'elle transmettait à la Sublime-Porte les dernières décisions de la commission.

Le 23 septembre 1881, l'ambassade transmet une „pétition“ de l'avocat Rossolato, „mandataire spécial de plusieurs sujets russes“ ayant à toucher des indemnités, pétition adressée à l'ambassade et mettant le Gouvernement Ottoman en demeure de s'entendre avec lui „dans un délai „de huit jours à partir de la signification, sur le mode de payement“, déclarant „le tenir d'ores et déjà responsable de tous dommages-intérêts „et notamment des intérêts moratoires“.

Par convention signée à Constantinople le 2/14 mai 1882,*) les deux gouvernements conviennent, art. I[er], que l'indemnité de guerre, dont le solde avait été fixé à 802,500,000 francs par l'art. IV du traité de paix de 1879 après défalcation de la valeur des territoires cédés par la Turquie, ne porterait pas d'intérêts et serait payée sous forme de cent versements annuels de 350,000 livres turques soit environ 8 millions de francs.

Le 19 juin/1[er] juillet 1884, aucune somme n'ayant été versée pour les indemnitaires, l'ambassade „réclame formellement le payement intégral „des indemnités qui ont été adjugées aux sujets russes . . .; elle se verra „obligée, dans le cas contraire, à leur reconnaître la faculté de prétendre,

*) V. N. R. G. 2. s. VIII, p. 218; XIV, p. 165.

„outre le capital, à des intérêts proportionnés au retard que subit le „règlement de leur créance."

Le 19 décembre 1884, la Sublime-Porte verse un premier acompte de 50,000 livres turques, soit environ 1,150,000 fr.

En 1885 se produit l'union de la Bulgarie et de la Roumélie orientale et la guerre serbo-bulgare. La Turquie ne paie aucun nouvel acompte. Une note de rappel en date de janvier 1886 ayant été sans résultat, l'ambassade insiste, le 15/27 février 1887; elle transmet une „pétition" qui lui est parvenue d'indemnitaires russes, dans laquelle ils tiennent le Gouvernement Ottoman „responsable de ce surcroît de dommages qui résulte „pour eux du retard apporté au payement de leurs indemnités", et l'ambassade ajoute: „De nouveaux ajournements obligeraient le Gouvernement „Impérial à réclamer en faveur de ses nationaux des intérêts pour les „retards que subit le règlement de leurs créances."

Après des notes de rappel de juillet et décembre 1887 demeurées sans effet, l'ambassade se plaint le 26 janvier/7 février 1888, de ce que la Turquie ait payé diverses créances postérieures aux obligations contractées envers les indemnitaires russes. Elle rappelle que „les arriérés „se montent à la somme d'environ 215,000 livres turques, un seul verse- „ment de 50,000 livres turques ayant été fait sur le total de 265,000 „livres turques adjugées"; elle demande donc „d'urgence . . . que les „sommes dues aux sujets russes soient immédiatement, et avant tout autre „payement, prélevées sur celles qui seront payées par X . . ." (un débiteur du Gouvernement Impérial Ottoman).

Le 22 avril 1889, la Turquie verse un second acompte de 50,000 livres.

Le 31 décembre 1890/12 janvier 1891, l'ambassade, constatant qu'il a été payé seulement 100,000 livres sur un total de 265,000, écrit à la Sublime-Porte que le retard apporté au règlement de cette créance fait subir des pertes toujours croissantes aux nationaux russes; elle croit donc devoir prier la Sublime-Porte „de provoquer des ordres immédiats à qui „de droit pour que la somme due . . . soit payée sans retard, *aussi bien* „*que les intérêts légaux* au sujet desquels [l'ambassade] a eu l'honneur de „prévenir la Sublime-Porte par note du 15/27 février 1887".

En août 1891 nouveau rappel. En octobre/novembre 1892, l'ambassade écrit „que cela ne peut durer indéfiniment ainsi"; que „les in- „stances des sujets russes deviennent de plus en plus pressantes", que „l'ambassade a le devoir de s'en faire avec énergie l'interprète, . . . qu'il „s'agit là d'une obligation indiscutable et d'un devoir international à „remplir . . .", que „le Gouvernement Ottoman ne saurait plus invoquer „pour s'y soustraire l'état précaire de ses finances", et conclut en demandant un „prompt et définitif règlement de la créance . . .".

Le 2/14 avril 1893, un troisième versement de 75,000 livres turques est effectué; la Sublime-Porte, en donnant avis de ce payement dès le 27 mars, ajoute que, pour le reliquat, la moitié en sera inscrite au budget courant et l'autre moitié au budget prochain; „la question ainsi réglée „met heureusement fin aux incidents auxquels elle avait donné lieu". La

Porte espère dès lors que l'ambassade voudra bien, dans ses sentiments d'amitié sincère à l'égard de la Turquie, accepter définitivement le monopole du tumbéki à l'instar des autres Puissances.

A çette occasion, et en rappelant que le Gouvernement Impérial Russe „s'est toujours montré amical et conciliant dans toutes les affaires „touchant aux intérêts financiers de l'Empire ottoman", l'ambassade prend acte le 30 du même mois des dispositions annoncées en vue du payement et consent à ce que les Russes faisant en Turquie le commerce de tumbéki soient soumis au régime nouvellement créé.

Un an plus tard, le 23 mai/4 juin 1894, n'ayant reçu aucun versement nouveau, l'ambassadeur, après avoir constaté la non-exécution de „l'arrangement" auquel il avait „consenti afin de faciliter au Gouvernement „Ottoman l'accomplissement de son obligation", se déclare „placé dans „l'impossibilité d'accepter des promesses, des arrangements ou des atermoie„ments ultérieurs", et „obligé d'insister pour *que la totalité du reliquat* dû „aux sujets russes, *qui monte à 91,000 livres turques*, soit, sans plus de „retard, versé à l'ambassade . . . De récentes opérations financières viennent „de mettre à la disposition [de la Sublime-Porte] des sommes importantes".

Le 27 octobre de la même année 1894, un versement de 50,000 livres turques est effectué, et la Sublime-Porte écrit, déjà le 3 du même mois, à l'ambassade: „Quant au reliquat de 41 mille livres turques, la „Banque Ottomane en garantira le payement dans le cours de l'exercice „prochain".

En 1896, une correspondance est échangée entre la Sublime-Porte et l'ambassade sur la question de savoir si les revenus sur lesquels la Banque Ottomane devait prélever le reliquat ne sont pas déjà engagés à la Russie pour le payement de l'indemnité de guerre proprement dite ou si la partie de ces revenus supérieure à l'annuité affectée à l'indemnité de guerre ne peut pas être employée à l'indemnisation des sujets russes victimes des événements de 1877/8. Au cours de cette correspondance, la Sublime-Porte indique, dans les notes qu'elle adresse à l'ambassade les 11 février et 28 mai 1896, que le reliquat dû s'élève à la somme de 43,978 livres turques.

De 1895 à 1899, de graves événements survenus en Asie-Mineure obligent la Turquie à provoquer un moratoire en faveur de la Banque Ottomane sur sa demande; l'insurrection des Druses, celle de la Crête qui est suivie de la guerre turco-grecque de 1897, des insurrections en Macédoine amènent à diverses reprises la Turquie à mobiliser des troupes et même des armées.

Pendant trois ans, aucune correspondance n'est échangée, et, lorsqu'elle reprend, la Sublime-Porte indique de nouveau le chiffre de 43,978 livres turques, comme le montant du reliquat des indemnités, dans les notes qu'elle adresse à l'ambassade les 19 juillet 1899 et 5 juillet 1900. A son tour, l'ambassade, dans ses notes des 25 avril/8 mai 1900 et 3/16 mars 1901, indique le même chiffre mais se plaint de ce que les ordres donnés dans diverses provinces „pour le payement des 43,978 livres

„turques, montant du reliquat de l'indemnité due aux sujets russes," n'ont pas été suivis d'effet, et de ce que la Banque Ottomane n'a rien versé; elle prie „instamment la Sublime-Porte de vouloir bien donner à qui de „droit des ordres catégoriques pour le payement, sans plus de retard, des „sommes susmentionnées".

Après qu'en mai 1901 la Sublime-Porte eut annoncé que le Département des Finances avait été invité à régler dans le courant du mois le reliquat de l'indemnité, la Banque Ottomane avisait enfin, les 24 février et 26 mai 1902, l'ambassade de Russie qu'elle avait reçu et tenait à la disposition de l'ambassade 42,438 livres turques sur le reliquat de 43,978 livres.

L'ambassade, en accusant deux mois plus tard réception de cet envoi à la Sublime-Porte le 23 juin/6 juillet 1902, faisait observer „que le „Gouvernement Impérial Ottoman a mis plus de vingt ans pour s'acquitter, „et imparfaitement encore, d'une dette dont le règlement immédiat s'imposait „à tous les points de vue, un solde de 1539 livres turques restant toujours „impayé. Se référant, par conséquent, à ses notes des 23 septembre 1881, „15/27 février 1887 et 31 décembre 1890/12 janvier 1891 au sujet des „intérêts à courir sur la dite créance, restée si longtemps en souffrance" l'ambassade transmet une requête par laquelle les indemnitaires réclament, en substance, des intérêts composés à 12 % depuis le 1er janvier 1881 jusqu'au 15 mars 1887, et à 9 % depuis cette date, à laquelle le taux de l'intérêt légal a été abaissé par une loi ottomane. La somme réclamée par les signataires s'élevait à une vingtaine de millions de francs au printemps de 1902 pour un capital primitif de 6,200,000 francs environ. La note se terminait comme suit: „L'ambassade impériale se plaît à croire „que la Sublime-Porte n'hésitera pas à reconnaître en principe le bien „fondé de la réclamation exposée dans cette requête; dans le cas pourtant „où la Sublime-Porte trouverait des objections à soulever contre le montant „de la somme réclamée par les sujets russes, l'ambassade impériale ne „verrait pas d'inconvénients à déférer l'examen des détails à une com„mission composée de délégués Russes et Ottomans."

La Sublime-Porte répond le 17 de ce même mois de juillet 1902 que l'art. V du Traité de paix de 1879 et le protocole de même date ne stipulent pas d'intérêts et qu'à la lumière des négociations diplomatiques qui ont eu lieu à ce sujet, elle était loin de s'attendre à voir formuler au dernier moment de la part des indemnitaires de telles demandes, dont l'effet serait de rouvrir une question qui se trouvait heureusement terminée. L'ambassade réplique le 3/16 février 1903 en insistant „sur le payement „des dommages-intérêts réclamés par ses ressortissants. Il n'y a que le „montant de ces dommages qui pourrait faire l'objet d'une enquête". — Sur une note de rappel en date du 2/15 août 1903, la Sublime-Porte répond le 4 mai 1904 en maintenant sa manière de voir et en se déclarant toutefois disposée à déférer la question à un arbitrage à La Haye dans le cas où l'on insisterait sur la réclamation.

Au bout de quatre ans, l'ambassade accepte cette suggestion par note du 19 mars/1er avril 1908.

Le compromis d'arbitrage a été signé à Constantinople le 22 juillet/ 4 août 1910.

Quant au petit solde de 1539 livres turques, il avait été mis par la Banque Ottomane en décembre 1902 à la disposition de l'ambassade de Russie qui l'a refusé et il demeure consigné à la disposition de l'ambassade.

II.

En droit.

1. Le Gouvernement Impérial de Russie base sa demande sur „la „responsabilité des Etats pour inexécution de dettes pécuniaires"; cette responsabilité implique, selon lui, „l'obligation de payer des dommages- „intérêts et spécialement les intérêts des sommes indûment retenues"; „l'obligation de payer des intérêts moratoires" est „la manifestation pratique, „en matière de dettes d'argent", de la responsabilité des Etats (Réplique Russe, pp. 27 et 51). „La méconnaissance de ces principes serait aussi „contraire à la notion même du droit des gens que dangereuse pour la „sécurité des relations pacifiques; en effet, en déclarant l'Etat débiteur „irresponsable du délai qu'il inflige à son créancier, on lui reconnaîtrait, „par là même, la liberté de n'écouter que son caprice pour s'exécuter; „. . . on obligerait, d'autre part, l'Etat créancier à recourir à la violence „contre une semblable prétention . . . et à ne rien attendre d'un prétendu „droit des gens manifestement incapable d'assurer le respect de la parole „donnée". (Mémoire Russe, p. 29).

En d'autres termes, et toujours dans l'opinion du Gouvernement Impérial de Russie, „il ne s'agit nullement ici d'intérêts conventionnels, „c'est-à-dire nés d'une stipulation particulière . . ." mais „l'obligation „incombant au Gouvernement Impérial Ottoman de payer des intérêts „moratoires est née du retard à exécuter, c'est-à-dire de l'inexécution „partielle du Traité de paix; cette obligation est bien née, il est vrai, „à l'occasion du traité de 1879, mais elle provient *ex post facto* d'une „cause nouvelle et accidentelle, qui est la faute de la Sublime-Porte à „remplir ses engagements comme elle s'y était obligée". Mémoire Russe, p. 29; Réplique Russe, pp. 22 et 27).

2. Le Gouvernement Impérial Ottoman, tout en admettant en termes explicites le principe général de la responsabilité des Etats à raison de l'inexécution de leurs engagements (Contre-Réplique, p. 29, No. 286 Note et p. 52, No. 358), soutient, au contraire, qu'en droit international public, des intérêts moratoires n'existent pas „sans stipulation expresse" (Contre-Mémoire Ottoman, p. 31, No. 83, et p. 34, No. 95); qu'un Etat „n'est „pas un débiteur comme un autre" (Ibidem, p. 33, No. 90), et que sans songer à soutenir „qu'aucune règle observable entre particuliers ne puisse „être appliquée entre Etats" (Contre-Réplique Ottomane, p. 26, No. 275), on doit tenir compte de la situation *sui generis* de l'Etat puissance publique;

que diverses législations (par exemple la loi française de 1831 qui institue une prescription extinctive de cinq ans pour les dettes de l'Etat, le droit romain qui pose le principe „*Fiscus ex suis contractibus usuras non dat*", Lex 17, paragr. 5, Digeste 22, 1) reconnaissent à l'Etat débiteur une situation privilégiée (Contre-Mémoire Ottoman, p. 33, No. 92); qu'en admettant contre un Etat une obligation implicite, non expressément stipulée, en étendant par exemple à un Etat débiteur les règles de la mise en demeure et ses effets en droit privé, on rendrait cet Etat „débiteur dans „une mesure plus forte qu'il ne l'aurait voulu, risquerait de compromettre „la vie politique de l'Etat, de nuire à ses intérêts primordiaux, de boule- „verser son budget, de l'empêcher de se défendre contre une insurrection „ou contre l'étranger". (Contre-Mémoire Ottoman, p. 33, No. 91).

Eventuellement et pour le cas où une responsabilité devrait lui incomber, le Gouvernement Impérial Ottoman conclut à ce que cette responsabilité consiste uniquement en intérêts moratoires et cela seulement à partir d'une mise en demeure reconnue régulière. (Contre-Réplique Ottomane, pp. 71 et suivantes, Nos. 410 et suivants).

Il oppose en outre les exceptions de la chose jugée, de la force majeure, du caractère de libéralité des indemnités, et de la renonciation tacite ou expresse de la Russie au bénéfice de la mise en demeure.

3. Les rapports de droit qui font l'objet du présent litige étant intervenus entre Etats Puissances publiques sujets du droit international et ces rapports rentrant dans le domaine du droit public, le droit applicable est le droit international public soit droit des gens et les Parties sont avec raison d'accord sur ce point. (Mémoire Russe p. 32; Contre-Mémoire Ottoman numéros 47 à 54, p. 18—20; Réplique Russe p. 18; Contre-Réplique Ottomane p. 17 numéros 244 et 245).

4. La demande du Gouvernement Impérial de Russie est fondée sur le principe général de la responsabilité des Etats, à l'appui duquel il a invoqué un grand nombre de sentences arbitrales.

La Sublime-Porte, sans contester ce principe général, prétend échapper à son application en affirmant le droit des Etats à une situation exceptionnelle et privilégiée dans le cas spécial de la responsabilité en matière de dettes d'argent.

Elle déclare inopérants la plupart des précédents arbitraux invoqués, comme ne s'appliquant pas à cette catégorie spéciale.

Le Gouvernement Impérial Ottoman fait observer, à l'appui de sa manière de voir, qu'en doctrine, on distingue des responsabilités diverses selon leur origine et selon leur étendue. Ces nuances se rattachent surtout à la théorie des responsabilités en Droit romain et dans les législations inspirées du Droit romain. Les Mémoires Ottomans rappellent les distinctions suivantes dont quelques-unes sont classiques: Les responsabilités sont d'abord divisées en deux catégories, suivant qu'elles ont pour cause un délit ou quasi-délit (responsabilité délictuelle) ou un contrat (responsabilité contractuelle). — Parmi les responsabilités contractuelles, on distingue encore suivant qu'il s'agit d'obligations ayant pour objet une prestation

quelconque autre qu'une somme d'argent ou suivant qu'il s'agit de prestations d'un caractère exclusivement pécuniaire, d'une dette d'argent proprement dite. Ces diverses catégories de responsabilités ne sont pas appréciées en droit civil d'une manière absolument identique, les circonstances nécessaires à la naissance de la responsabilité ainsi que ses conséquences étant variables. — Tandis qu'en matière de responsabilités délictuelles aucune formalité quelconque n'est nécessaire, en matière contractuelle il faut toujours une mise en demeure. Tandis qu'en matière d'obligations ayant pour objet une prestation autre qu'une somme d'argent comme d'ailleurs en matière délictuelle, la réparation du dommage est complète *(lucrum cessans* et *damnum emergens)*, cette réparation, en matière de dettes d'argent, est restreinte forfaitairement aux intérêts de la somme due, lesquels ne courront qu'à partir de la mise en demeure. Les *dommages-intérêts* sont appelés *compensatoires* quand ils sont la compensation du dommage résultant d'un délit ou de l'inexécution d'une obligation. Ils sont appelés *dommages-intérêts moratoires,* bien qu'ils représentent encore une compensation, lorsqu'ils sont la conséquence d'un retard dans l'exécution d'une obligation. — Les auteurs enfin appellent *intérêts moratoires* les intérêts forfaitairement allouées en cas de retard dans le payement de dettes d'argent, les distinguant ainsi d'autres intérêts ajoutés, parfois, pour fixer le montant total d'une indemnité, à l'évaluation en argent d'un dommage, ces derniers étant appelés *intérêts compensatoires.*

Ces distinctions du droit civil s'expliquent: En matière de responsabilité contractuelle en effet, on est en droit d'exiger d'un co-contractant une diligence dont la victime d'un délit imprévu ne saurait être tenue. — En matière de dettes d'argent, la difficulté d'évaluer les conséquences de la demeure explique qu'on ait fixé forfaitairement le montant du dommage.

La thèse du Gouvernement Impérial Ottoman consiste à soutenir qu'en droit international public, la responsabilité spéciale consistant au payement d'intérêts moratoires en cas de retard dans le règlement d'une dette d'argent liquide n'existe pas pour un Etat débiteur. La Sublime-Porte ne conteste pas la responsabilité des Etats s'il s'agit de dommages-intérêts compensatoires, ni des intérêts pouvant rentrer dans le calcul de ces dommages-intérêts compensatoires. La responsabilité que la Sublime-Porte décline, c'est celle pouvant résulter, sous forme d'intérêts de retard ou moratoires au sens restreint, du retard dans l'exécution d'une obligation pécuniaire.

Il importe de rechercher si ces dénominations variées, ces appellations créées par les commentateurs, correspondent à des différences intrinsèques dans la nature même du droit, à des différences dans l'essence juridique de la notion de responsabilité. — Le tribunal est d'avis que tous les dommages-intérêts sont toujours la réparation, la compensation d'une faute. A ce point de vue, tous les dommages-intérêts sont compensatoires, peu importe le nom qu'on leur donne. Les intérêts forfaitaires alloués au créancier d'une somme d'argent à partir de la mise en demeure sont la compensation forfaitaire de la faute du débiteur en retard exactement

comme les dommages-intérêts ou les intérêts alloués en cas de délit, de quasi-délit ou d'inexécution d'une obligation de faire, sont la compensation du préjudice subi par le créancier, la représentation en argent de la responsabilité du débiteur fautif. — Exagérer les conséquences des distinctions faites en droit civil dans la responsabilité se légitimerait d'autant moins qu'il se dessine, dans plusieurs législations récentes, une tendance à atténuer ou à supprimer les adoucissements apportés par le Droit romain et ses dérivés à la responsabilité en matière de dettes d'argent. — Il est certain en effet que toutes les fautes, quelle qu'en soit l'origine, finissent par être évaluées en argent et transformées en obligation de payer; elles aboutissent toutes, ou peuvent aboutir, en dernière analyse, à une dette d'argent. — Il n'est donc pas possible au tribunal d'apercevoir des différences essentielles entre les diverses responsabilités. Identiques dans leur origine, la faute, elles sont les mêmes dans leurs conséquences, la réparation en argent.

Le Tribunal est donc de l'avis que le principe général de la responsabilité des Etats implique une responsabilité spéciale en matière de retard dans le payement d'une dette d'argent, à moins d'établir l'existence d'une coutume internationale contraire.

Le Gouvernement Impérial de Russie et la Sublime-Porte ont apporté au débat une série de sentences arbitrales qui ont admis, affirmé et consacré le principe de la responsabilité des Etats. La Sublime-Porte considère comme inopérantes la presque totalité de ces sentences et élimine même celles dans lesquelles l'arbitre a expressément alloué l'intérêt de sommes d'argent. Le Gouvernement Impérial Ottoman est d'avis qu'il s'agit là d'intérêts compensatoires et il les écarte comme sans application dans le litige actuel. Le Tribunal, pour les motifs indiqués plus haut, est au contraire de l'avis qu'il n'existe pas de raisons pour ne pas s'inspirer de la grande analogie qui existe entre les diverses formes de la responsabilité; cette analogie apparaît comme particulièrement étroite entre les *intérêts* dits moratoires et les *intérêts* dits compensatoires; l'analogie paraît complète entre l'allocation d'intérêts à partir d'une certaine date à l'occasion de l'évaluation de la responsabilité en capital, et l'allocation d'intérêts sur un capital fixé par convention et demeuré impayé par un débiteur en faute. La seule différence est que, dans un des cas, les intérêts sont alloués par le juge puisque la dette n'était pas exigible et que dans l'autre le montant de la dette était fixé par convention et que les intérêts deviennent exigibles automatiquement en cas de mise en demeure.

Pour infirmer cette analogie très étroite, il faudrait que la Sublime-Porte pût établir l'existence d'une coutume, de précédents d'après lesquels des intérêts moratoires au sens restreint du mot auraient été refusés *en tant qu'intérêts moratoires*, l'existence d'une coutume dérogeant, en matière de dette pécuniaire, aux règles générales de la responsabilité. — Le Tribunal est d'avis que cette preuve, non seulement n'a pas été faite, mais que le Gouvernement Impérial Russe a pu se prévaloir, au contraire, de plusieurs sentences arbitrales dans lesquelles des intérêts moratoires ont été, parfois il est vrai avec des nuances et dans une mesure discutables, alloués à des

Etats (*Mexique-Vénézuéla,* 2 octobre 1903,*) Mémoire Russe, p. 28 et note 5; Contre-Mémoire Ottoman, p. 38, N⁰. 107; *Colombie Italie,* 9 avril 1904,**) Réplique-Russe, p. 28 et note 7; Contre-Réplique Ottomane, p. 58, N⁰. 368; *Etats-Unis-Choctaws,* Réplique Russe, p. 29; Contre-Réplique Ottomane, p. 59, N⁰. 369. *Etats-Unis-Vénézuéla,* 5 décembre 1885,***) Réplique Russe p. 28 et note 5). Il y a lieu d'ajouter à ces cas la sentence rendue le 2 juillet 1881 par S. M. l'Empereur d'Autriche dans l'affaire de la Mosquitia,†) en ce sens que l'arbitre n'a nullement refusé des intérêts moratoires comme tels, mais a simplement prononcé que l'allocation du capital ayant le caractère d'une libéralité, cela excluait, dans la pensée de l'arbitre, des intérêts de retard (Réplique Russe, p. 28, note 4; Contre-Réplique Ottomane, p. 55 N⁰. 365, note).

Il reste à examiner si la Sublime-Porte est fondée à soutenir qu'un Etat n'est pas un débiteur comme un autre, qu'il ne peut être „débiteur „dans une mesure plus forte qu'il ne l'aurait voulu", et qu'en lui imposant des obligations qu'il n'a pas stipulées, par exemple les responsabilités d'un débiteur privé, on risquerait de compromettre ses finances et même son existence politique.

Dès l'instant où le Tribunal a admis que les diverses responsabilités des Etats ne se distinguent pas les unes des autres par des différences essentielles, que toutes se résolvent ou peuvent finir par se résoudre dans le payement d'une somme d'argent, et que la coutume internationale et les précédents concordent avec ces principes, il faut en conclure que la responsabilité des Etats ne saurait être niée ou admise qu'entièrement et non pour partie; il ne serait dès lors pas possible au tribunal de la déclarer inapplicable en matière de dettes d'argent sans étendre cette inapplicabilité à toutes les autres catégories de responsabilités.

Si un Etat est condamné à des dommages-intérêts compensatoires d'un délit ou de l'inexécution d'une obligation, il est, encore plus que dans le cas de retard dans le payement d'une dette d'argent conventionnelle, débiteur dans une mesure qu'il n'aurait pas stipulée volontairement. — Quant aux conséquences de ces responsabilités pour les finances de l'Etat débiteur, elles peuvent être au moins aussi graves, sinon davantage, s'il s'agit des dommages-intérêts appelés compensatoires par la Sublime-Porte, que s'il s'agit des simples intérêts moratoires au sens restreint du mot. Pour peu d'ailleurs que la responsabilité mette en péril l'existence de l'Etat, elle constituerait un cas de force majeure qui pourrait être invoqué en droit international public aussi bien que par un débiteur privé.

Le Tribunal est donc d'avis que la Sublime-Porte, qui a accepté explicitement le principe de la responsabilité des Etats, n'est pas fondée à demander une exception à cette responsabilité

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*) V. Recueil international des Traités du XXe siècle 1903, p. 848.
) V. ibid. 1904, p. 820. *) V. N. R. G. 2 s. XXII, p. 20.
†) V. ibid. X, p. 609.

en matière de dettes d'argent, en invoquant sa qualité de Puissance publique et les conséquences politiques et financières de cette responsabilité.

5. Pour établir en quoi consiste cette responsabilité spéciale incombant à l'Etat débiteur d'une dette conventionnelle liquide et exigible, il convient maintenant de rechercher, en procédant par analogie comme l'ont fait les sentences arbitrales invoquées, les principes généraux de droit public et privé en cette matière, tant au point de vue de l'étendue de cette responsabilité qu'à celui des exceptions opposables.

Les législations privées des Etats faisant partie du concert européen admettent toutes, comme le faisait autrefois le Droit romain, l'obligation de payer au moins des intérêts de retard à titre d'indemnité forfaitaire lorsqu'il s'agit de l'inexécution d'une obligation consistant dans le payement d'une somme d'argent fixée conventionnellement, liquide et exigible, et cela au moins à partir de la mise en demeure du débiteur. — Quelques législations vont plus loin et considèrent que le débiteur est déjà en demeure dès la date de l'échéance ou encore admettent la réparation complète des dommages au lieu des simples intérêts forfaitaires.

Si la plupart des législations ont, à l'exemple du Droit romain, exigé une mise en demeure expresse, c'est que le créancier est en faute de son côté par manque de diligence tant qu'il ne réclame pas le payement d'une somme liquide et exigible.

Le Gouvernement Impérial Russe (Mémoire, p. 32) admet lui-même, en faveur de la nécessité d'une mise en demeure, qu'en équité, il peut convenir „de ne pas prendre par surprise un Etat débiteur passible „d'intérêts moratoires, alors qu'aucun avertissement ne l'a rappelé à l'observation de ses engagements". Les auteurs (p. ex, Heffter, *Droit international de l'Europe*, paragr. 94), font observer que, lors de „l'exécution „d'un traité public, il faut procéder avec modération et avec équité, „d'après la maxime qu'on doit traiter les autres comme on voudrait être „traité soi-même. Il faut, en conséquence, accorder des délais convenables, „afin que la partie obligée subisse le moins de préjudice possible. L'obligé „peut attendre la mise en demeure du créancier avant d'être responsable „du retard, s'il ne s'agit pas de prestations dont l'exécution est rattachée „d'une manière expresse à une époque déterminée". Voir aussi Merignhac *Traité de l'arbitrage international*, Paris 1895 p. 290.

D'assez nombreuses sentences arbitrales internationales ont admis, même lorsqu'il s'agissait de *dommages-intérêts* moratoires, qu'il n'y avait pas lieu de les faire courir toujours dès la date du fait dommageable (*Etats-Unis contre Vénézuéla*, Orinoco, sentence de la Haye du 25 octobre 1910 *) protocoles p. 59, *Etats-Unis contre Chili*, 15 mai 1863 sentence de S. M. le Roi des Belges Léopold I, Lafontaine, Pasicrisie p. 36 colonne 2 et p. 37 colonne 1, *Allemagne contre Vénézuéla*, Arrangement du

*) V. N. R. G. 3. s. IV, p. 79.

7 mai 1903,*) Ralston & Doyle, Venezuelian Arbitrations, Washington 1904 **) p. 520 à 523, *Etats-Unis contre Vénézuéla* 5 décembre 1885,***) Moore, Digest of International Arbitrations p. 3545 et p. 3567 Vol. 4, etc. etc.).

Il n'y a donc pas lieu, et il serait contraire à l'équité de présumer une responsabilité de l'Etat débiteur plus rigoureuse que celle imposée au débiteur privé dans un grand nombre de législations européennes. L'équité exige, comme l'indique la doctrine, et comme le Gouvernement Impérial Russe l'admet lui-même, qu'il y ait eu avertissement, mise en demeure adressée au débiteur d'une somme ne portant pas d'intérêts. Les mêmes motifs réclament que la mise en demeure mentionne expressément les intérêts, et concourent à faire écarter une responsabilité dépassant les simples intérêts forfaitaires.

Il résulte de la correspondance produite que le Gouvernement Impérial Russe a expressément et en termes absolument catégoriques, réclamé de la Sublime-Porte le payement du capital et „des intérêts" par note de son ambassade à Constantinople en date du 31 décembre 1890/12 janvier 1891. Entre Etats, la voie diplomatique constitue le mode de communication normal et régulier pour leurs relations de droit international public; cette mise en demeure est donc régulière en la forme.

> Le Gouvernement Impérial Ottoman doit donc être tenu pour responsable des intérêts de retard à partir de la réception de cette mise en demeure.

Le Gouvernement Impérial Ottoman invoque, pour le cas où une responsabilité lui serait imposée, diverses exceptions dont il reste à examiner la portée:

6. *L'exception de la force majeure*, invoquée en première ligne, est opposable en droit international public aussi bien qu'en droit privé; le droit international doit s'adapter aux nécessités politiques. Le Gouvernement Impérial Russe admet expressément (Réplique Russe, p. 33 et note 2) que l'obligation pour un Etat d'exécuter les traités peut fléchir „si „l'existence même de l'Etat vient à être en danger, si l'observation du „devoir international est .... „self destructive".

Il est incontestable que la Sublime-Porte prouve, à l'appui de l'exception de la force majeure (Contre-Mémoire Ottoman, p. 43, Nos. 119 à 128, Contre-Réplique Ottomane, p. 64, Nos. 382 à 398 et p. 87) que la Turquie s'est trouvée de 1881 à 1902 aux prises avec des difficultés financières de la plus extrême gravité, cumulées avec des événements intérieurs et extérieurs (insurrections, guerres) qui l'ont obligée à donner des affectations spéciales à un grand nombre de ses revenus, à subir un contrôle étranger d'une partie de ses finances, à accorder même un moratoire à la Banque Ottomane, et, en général, à ne pouvoir faire face à ses engagements qu'avec des retards ou des lacunes et cela au prix de grands

*) V. N. R. G. 3. s. I, p. 46. **) V. ibid. p. 57.
***) V. N. R. G. 2. s. XXII, p. 20.

sacrifices. Mais il est avéré, d'autre part, que, pendant cette même période et notamment à la suite de la création de la Banque Ottomane, la Turquie a pu contracter des emprunts à des taux favorables, en convertir d'autres, et finalement amortir une partie importante, évaluée à 350 millions de francs, de sa dette publique (Réplique Russe, p. 37). Il serait manifestement exagéré d'admettre que le payement (ou la conclusion d'un emprunt pour le payement) de la somme relativement minime d'environ six millions de francs due aux indemnitaires russes aurait mis en péril l'existence de l'Empire Ottoman ou gravement compromis sa situation intérieure ou extérieure. L'exception de la force majeure ne saurait donc être accueillie.

7. La Sublime-Porte soutient ensuite „que la reconnaissance d'une „créance de capital au profit des indemnitaires russes constituait une *libé-„ralité* convenue dans leur intérêt entre les deux Gouvernements" (Contre-Réplique, No. 253, p. 19; No. 331, p. 44; No. 365, p. 55, et conclusions, p. 87). — Elle fait observer que le Code civil allemand, paragraphe 522, le Droit commun germanique, la jurisprudence autrichienne et le Droit romain invoqué à titre supplétoire (Loi 16 praemium, Digeste 22, 1) interdisent de frapper d'intérêts moratoires la donation. — Elle invoque surtout la sentence arbitral rendue le 2 juillet 1881 par S. M. l'Empereur d'Autriche dans l'affaire de la Mosquitia entre la Grande-Bretagne et le Nicaragua.*)

Dans cette affaire, la Grande-Bretagne avait renoncé, par un traité de 1860, au protectorat sur la Mosquitia et à la ville de Grey Town (San Juan del Norte) et reconnu sur la Mosquitia la souveraineté du Nicaragua en stipulant que cette République payerait pendant dix ans au chef des Mosquitos, pour lui faciliter l'établissement du self government dans ses territoires, une rente de 5000 dollars qui ne tarda pas à demeurer impayée. Le chef des Mosquitos bénéficiait donc, dans la pensée de l'arbitre, d'une véritable libéralité, réclamée en sa faveur du Nicaragua par la Grande-Bretagne, qui, elle, avait fait des sacrifices politiques en renonçant à son protectorat et au port de Grey Town. — Dans l'opinion du Tribunal, les indemnitaires russes, eux, ont subi des dommages, ont été victimes de faits de guerre; la Turquie s'est engagée à rembourser le montant de ces dommages à toutes les victimes russes qui auraient fait évaluer leur préjudice par la commission instituée auprès de l'ambassade de Russie à Constantinople. Les décisions de cette commission n'ont pas été contestées et le Tribunal arbitral n'a pas à les reviser ni à apprécier si elles ont ou non été trop généreuses. Si l'indemnisation par la Turquie des Russes victimes des opérations de guerre n'était pas obligatoire en droit des gens commun, elle n'a rien de contraire à celui-ci et peut être considérée comme la transformation en obligation juridique d'un devoir moral par un traité de paix dans des conditions analogues à une indemnité de guerre proprement dite. — Dans toute la correspondence diplomatique

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*) V. N. R. G. 2. s. X, p. 609.

échangée depuis trente ans sur cette affaire, les Russes victimes des opérations de guerre ont toujours été considérés par les deux parties signataires des accords de 1878/1879 comme des indemnitaires et non comme des donataires. Enfin, la Turquie a reçu la contre-partie de sa prétendue libéralité dans le fait de la cessation des hostilités (Réplique Russe, p. 50, paragr. 2). Il n'est donc pas possible d'admettre l'existence d'une libéralité et encore moins une donation, et il devient, par suite, superflu de rechercher si, en droit international public, les donateurs doivent bénéficier de l'exemption d'intérêts moratoires établie à leur profit par certaines législations privées.

8. La Sublime-Porte invoque *l'exception* de la *chose jugée,* en s'appuyant sur le fait que trois indemnitaires ont demandé à la commission instituée auprès de l'ambassade de Russie à Constantinople des intérêts jusqu'à parfait payement, que la commission a écarté leur requête et que cette solution négative serait encore plus certainement intervenue à l'égard des autres indemnitaires qui n'ont pas réclamé de semblables intérêts. (Contre-Réplique Ottomane p. 86).

Cette exception ne saurait être accueillie parce que, même en admettant que la commission de Constantinople puisse être considérée comme un tribunal, la question actuellement pendante est celle de savoir si des dommages-intérêts sont dus, *a posteriori,* à raison des dates auxquelles ont été payées les indemnités évaluées en 1879/81 par la Commission; or celle-ci n'a pas jugé et n'a pu juger cette question.

9. La Sublime-Porte invoque, comme dernière exception, le fait „qu'il a été entendu, tacitement et même expressément, pendant tout le „cours des onze ou douze dernières années de correspondances diplomatiques, „que la Russie ne réclamait pas d'intérêts ni de dommages-intérêts d'au-„cune sorte qui auraient été à la charge de l'Empire Ottomane“ et „que „le Gouvernement Impérial de Russie, une fois le capital intégralement „mis à sa disposition, ne pouvait pas valablement revenir d'une façon „unilatérale sur l'entente convenue de sa part“ (Contre-Réplique Ottomane, pp. 89—91).

Le Gouvernement Impérial Ottoman fait observer avec raison que si la Russie a fait parvenir à Constantinople, par la voie diplomatique, le 31 décembre 1890/12 janvier 1891, une mise en demeure régulière d'avoir à payer le capital et les intérêts, il résulte, d'autre part, de la correspondance subséquente, qu'à l'occasion du payement des acomptes, aucune réserve d'intérêts n'a figuré dans les reçus délivrés par l'ambassade, et que celle-ci n'a jamais imputé les sommes reçues sur les intérêts. Il en résulte aussi que les Parties ont non seulement ébauché des combinaisons pour arriver au payement, mais se sont abstenues de faire mention des intérêts pendant dix ans environ. Il en résulte surtout que les deux Gouvernements ont interprété de façon identique le terme de reliquat de l'indemnité; que ce terme, employé pour la première fois par le Ministère Ottoman des Affaires Etrangères dans une communication du 27 mars 1893, revient fréquemment dans la suite; que les deux Gouvernements ont visé con-

stamment par le mot reliquat les fractions du capital restant dû à la date des notes échangées, ce qui laisse de côté les intérêts moratoires; que l'ambassadeur de Russie à Constantinople a écrit le 23 mai/4 juin 1894: „Je suis obligé d'insister pour que la totalité du reliquat dû aux sujets „russes, qui monte à 91,000 livres turques, soit, sans plus de retard, „versé à l'ambassade, afin de faire droit aux justes plaintes et réclamations „des intéressés . . . et mettre ainsi réellement, selon l'expression de Votre „Excellence, fin aux incidents auxquels elle avait donné lieu"; que cette somme de 91,000 livres turques était exactement celle qui demeurait alors due sur le capital et qu'ainsi les intérêts moratoires ont été laissés de côté; — que le 3 octobre de la même année 1894, la Turquie, sur le point de payer un acompte de 50,000 livres, a annoncé à l'ambassade, sans rencontrer d'objections, que la Banque Ottomane „garantira le paye- „ment du reliquat de 41,000 livres turques"; — que le 13/25 janvier 1896, l'ambassade a repris le même terme de reliquat de l'indemnité tout en protestant contre l'affectation par la Turquie à la Banque Ottomane, de délégations sur des revenus déjà engagés au Gouvernement Impérial Russe pour le payement de l'indemnité de guerre; — que, le 11 février de cette même année 1896, à l'occasion de la discussion des ressources à fournir à la Banque Ottomane, la Sublime-Porte a mentionné, dans une note adressée à l'ambassade, „les 43,978 livres turques représentant le reli- „quat de l'indemnité"; — que, quelques jours plus tard, le 10/22 février, l'ambassade a répondu en se servant des mêmes mots „solde" ou „reli- „quat de l'indemnité", et, que le 28 mai, le Ministère Ottoman des Affaires Etrangères a mentionné derechef, „la somme de 43,978 livres „turques représentant ledit reliquat"; — qu'il en a été de même dans une note de l'ambassade datée du 25 avril/8 mai 1900, bien qu'il se fut écoulé près de quatre ans entre ces communications et celles de 1896 et qu'un rappel de la question des intérêts s'imposât en quelque sorte après un aussi long délai; que cette même expression „reliquat de l'indemnité" figure dans une note de la Sublime-Porte du 5 juillet 1900; — qu'enfin, le 3/16 mars 1901, l'Ambassade de Russie, après avoir constaté que la Banque Ottomane n'a pas fait de nouveaux versements „pour le payement des 43,978 livres turques, montant du reliquat de l'indemnité due aux sujets russes", a demandé l'envoi à qui de droit d'ordres „catégoriques pour le payement sans plus de retard „des sommes susmentionnées"; — que ce reliquat ayant, à un petit solde près, été tenu par la Banque Ottomane à la disposition de l'ambassade, c'est seulement au bout de plusieurs mois, le 23 juin/6 juillet, que cette dernière a transmis à la Sublime-Porte une demande „des intéressés" concluant au payement d'une vingtaine de millions de francs pour intérêts de retard, en exprimant l'espoir que la Sublime-Porte „n'hésitera pas à reconnaître, en „principe, le bien fondé de la réclamation", sauf „à déférer l'examen des „détails à une commission" mixte russo-turque; — qu'en résumé, depuis onze ans et davantage, et jusqu'à une date postérieure au payement du reliquat du capital, il n'avait non seulement plus été question d'intérêts

entre les deux Gouvernements mais été à maintes reprises fait mention seulement du reliquat du capital.

Dès l'instant où le Tribunal a reconnu que, d'après les principes généraux èt la coutume en droit international public, il y avait similitude des situations entre un Etat et un particulier débiteurs d'une somme conventionnelle liquide et exigible, il est équitable et juridique d'appliquer aussi par analogie les règles de droit privé commun aux cas où la demeure doit être considérée comme purgée et le bénéfice de celle-ci supprimé. — En droit privé, les effets de la demeure sont supprimés lorsque le créancier, après avoir constitué le débiteur en demeure, accorde un ou plusieurs délais pour satisfaire à l'obligation principale sans réserver les droits acquis par la demeure (*Toullier-Duvergier, Droit français*, tome III, p. 159, No. 256), ou encore lorsque „le créancier ne donne pas suite à la som-„mation qu'il avait faite au débiteur", et „ces règles s'appliquent aux „dommages intérêts et aussi aux intérêts dus pour l'inexécution de l'obli-„gation . . . ou pour retard dans l'exécution" (*Duranton, Droit français*, X, p. 470, Aubry *et* Rau, *Droit Civil* 1871, IV, p. 99, Berney, *De la demeure* etc. Lausanne 1886, p. 62; Windscheid *Lehrbuch des Pandektenrechts* 1879 p. 99, Demolombe X, p. 49, Larombière I art. 1139 No. 22, etc.)

Entre le Gouvernement Impérial Russe et la Sublime-Porte, il y a donc eu renonciation aux intérêts de la part de la Russie, puisque son ambassade a successivement accepté sans discussion ni réserve et reproduit à maintes reprises dans sa propre correspondance diplomatique les chiffres du reliquat de l'indemnité comme identiques aux chiffres du reliquat en capital. — En d'autres termes, la correspondance des dernières années établit que les deux Parties ont interprété, en fait, les actes de 1879 comme impliquant l'identité entre le payement du solde du capital et le payement du solde auquel avaient droit les indemnitaires, ce qui impliquait l'abandon des intérêts ou dommages-intérêts moratoires.

Le Gouvernement Impérial Russe ne peut, une fois le capital de l'indemnité intégralement versé ou mis à sa disposition, revenir valablement d'une façon unilatérale sur une interprétation acceptée et pratiquée en son nom par son ambassade.

III.

En conclusion.

Le Tribunal arbitral, se basant sur les observations de droit et de fait qui précèdent, est d'avis

qu'en principe, le Gouvernement Impérial Ottoman était tenu, vis-à-vis du Gouvernement Impérial de Russie, à des indemnités moratoires à partir du 31 décembre 1890/12 janvier 1891, date de la réception d'une mise en demeure explicite et régulière,

mais que, de fait, le bénéfice de cette mise en demeure ayant cessé pour le Gouvernement Impérial de Russie par suite de la renonciation subséquente

de son ambassade à Constantinople, le Gouvernement Impérial Ottoman n'est pas tenu aujourd'hui de lui payer des dommages-intérêts à raison des dates auxquelles a été effectué le payement des indemnités,

et, en conséquence,

Arrête

il est répondu négativement à la question posée au chiffre I de l'article 3 du Compromis et ainsi conçue: „Oui ou non, le Gouvernement Impérial Ottoman est-il tenu de payer aux indemnitaires „russes des dommages-intérêts à raison des dates auxquelles ledit „Gouvernement a procédé au payement des indemnités fixées en „exécution de l'article 5 du traité du 27 janvier/8 février 1879, „ainsi que du Protocole de même date"?

Fait à La Haye, dans l'hôtel de la Cour Permanante d'Arbitrage, le 11 novembre 1912.

Le Président: *Lardy.*
Le Secrétaire général: *Michiels van Verduynen.*
Le Secrétaire: *Röell.*

136.

ETATS-UNIS D'AMÉRIQUE, GRANDE-BRETAGNE.

Arrangement en vue d'adopter la procédure recommandée par le Tribunal d'arbitrage constitué pour mettre fin aux différends relatifs à la pêche sur la côte de l'Atlantique septentrional;*) signé à Washington, le 20 juillet 1912.**)

Treaty Series (Washington), No. 572.

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous of concluding an agreement regarding the exercise of the liberties referred to in Article I of the Treaty of October 20, 1818, ***) have for this purpose named as their Plenipotentiaries:

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*) V. la Sentence arbitrale rendue le 7 septembre 1910; **N. R. G.** 3. s. IV, p. 89, spécialement p. 104, 114, 115.

**) Les ratifications ont été échangées à Washington, le 15 novembre 1912.

***) V. **N. R.** IV, p. 570; V (vol. suppl.), p. 406.

The President of the United States of America:

Chandler P. Anderson, Counselor for the Department of State of the United States;

His Britannic Majesty:

Alfred Mitchell Innes, Chargé d'Affaires of His Majesty's Embassy at Washington;

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

Article I.

Whereas the award of the Hague Tribunal of September 7, 1910, recommended for the consideration of the Parties certain rules and a method of procedure under which all questions which may arise in the future regarding the exercise of the liberties referred to in Article I of the Treaty of October 20, 1818, may be determined in accordance with the principles laid down in the award, and the Parties having agreed to make certain modifications therein, the rules and method of procedure so modified are hereby accepted by the Parties in the following form:

1. All future municipal laws, ordinances, or rules for the regulation of the fisheries by Great Britain, Canada, or Newfoundland in respect of (1) the hours, days, or seasons when fish may be taken on the treaty coasts; (2) the method, means, and implements used in the taking of fish or in carrying on fishing operations; (3) any other regulations of a similar character; and all alterations or amendments of such laws, ordinances, or rules shall be promulgated and come into operation within the first fifteen days of November in each year; provided, however, in so far as any such law, ordinance, or rule shall apply to a fishery conducted between the 1st day of November and the 1st day of February, the same shall be promulgated at least six months before the 1st day of November in each year.

Such laws, ordinances, or rules by Great Britain shall be promulgated by publication in the London Gazette, by Canada in the Canada Gazette, and by Newfoundland in the Newfoundland Gazette.

After the expiration of ten years from the date of this Agreement, and so on at intervals of ten years thereafter, either Party may propose to the other that the dates fixed for promulgation be revised in consequence of the varying conditions due to changes in the habits of the fish or other natural causes; and if there shall be a difference of opinion as to whether the conditions have so varied as to render a revision desirable, such difference shall be referred for decision to a commission possessing expert knowledge, such as the Permanent Mixed Fishery Commission hereinafter mentioned.

2. If the Government of the United States considers any such laws or regulations inconsistent with the Treaty of 1818, it is entitled so to notify the Government of Great Britain within forty-five days after the

publication above referred to, and may require that the same be submitted to and their reasonablenes, within the meaning of the award, be determined by the Permanent Mixed Fishery Commission constituted as hereinafter provided.

3. Any law or regulation not so notified within the said period of forty-five days, or which, having been so notified, has been declared reasonable and consistent with the Treaty of 1818 (as interpreted by the said award) by the Permanent Mixed Fishery Commission, shall be held to be reasonable within the meaning of the award; but if declared by the said Commission to be unreasonable and inconsistent with the Treaty of 1818, it shall not be applicable to the inhabitants of the United States exercising their fishing liberties under the Treaty of 1818.

4. Permanent Mixed Fishery Commissions for Canada and Newfoundland, respectively, shall be established for the decision of such questions as to the reasonableness of future regulations, as contemplated by Article IV of the Special Agreement of January 27, 1909.*) These Commissions shall consist of an expert national, appointed by each Party for five years; the third member shall not be a national of either Party. He shall be nominated for five years by agreement of the Parties, or, failing such agreement, within two months from the date, when either of the Parties to this Agreement shall call upon the other to agree upon such third member, he shall be nominated by Her Majesty the Queen of the Netherlands.

5. The two national members shall be summoned by the Government of Great Britain, and shall convene within thirty days from the date of notification by the Government of the United States. These two members having failed to agree on any or all of the questions submitted within thirty days after they have convened, or having before the expiration of that period notified the Government of Great Britain that they are unable to agree, the full Commission, under the presidency of the Umpire, is to be summoned by the Government of Great Britain, and shall convene within thirty days thereafter to decide all questions upon which the two national members had disagreed. The Commission must deliver its decision, if the two Governments do not agree otherwise, within forty-five days after it has convened. The Umpire shall conduct the procedure in accordance with that provided in Chapter IV of the Convention for the Pacific Settlement of International Disputes, of October 18, 1907,**) except in so far as herein otherwise provided.

6. The form of convocation of the Commission, including the terms of reference of the question at issue, shall be as follows:

„The provision hereinafter fully set forth of an act dated . . . . ., published in the . . . . . Gazette, has been notified to the Government of Great Britain by the Government of the United States under date

*) V. N. R. G. 3. s. II, p. 742. **) V. N. R. G. 3. s. III, p. 360.

of . . . . ., as provided by the agreement entered into on July 20, 1912, pursuant to the award of the Hague Tribunal of September 7, 1910.

„Pursuant to the provisions of that Agreement the Government of Great Britain hereby summons the Permanent Mixed Fishery Commission for

(Canada)
(Newfoundland) composed of . . . . Commissioner for the United States of America, and of . . . . . . Commissioner for (Canada)
(Newfoundland)
who shall meet at Halifax, Nova Scotia, with power to hold subsequent meetings at such other place or places as they may determine, and render a decision within thirty days as to whether the provision so notified is reasonable and consistent with the Treaty of 1818, as interpreted by the award of the Hague Tribunal of September 7, 1910, and if not, in what respect it is unreasonable and inconsistent therewith.

„Failing an agreement on this question within thirty days, the Commission shall so notify the Government of Great Britain in order that the further action required by that award shall be taken for the decision of the above question.

„The provision is as follows . . . .“

7. The unanimous decision of the two national Commissioners, or the majority decision of the Umpire and one Commissioner, shall be final and binding.

8. Any difference in regard to the regulations specified in Protocol XXX of the arbitration proceedings, which shall not have been disposed of by diplomatic methods, shall be referred not to the Commission of expert specialists mentioned in the award but to the Permanent Mixed Fishery Commissions, to be constituted as hereinbefore provided, in the same manner as a difference in regard to future regulations would be so referred.

Article II.

And whereas the Tribunal of Arbitration in its award decided that—

In case of bays the 3 marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the 3 marine miles are to be measured following the sinuosities of the coast.

And whereas the Tribunal made certain recommendations for the determination of the limits of the bays enumerated in the award;

Now, therefore, it is agreed that the recommendations, in so far as the same relate to bays contiguous to the territory of the Dominion of Canada, to which Question V of the Special Agreement is applicable, are hereby adopted, to wit:

In every bay not hereinafter specifically provided for, the limits of exclusion shall be drawn three miles seaward from a

straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

For the Baie des Chaleurs the limits of exclusion shall be drawn from the line from the Light at Birch Point on Miscou Island to Macquereau Point Light; for the bay of Miramichi, the line from the Light at Point Escuminac to the Light on the eastern point of Tabisintac Gully; for Egmont Bay, in Prince Edward Island, the line from the Light at Cape Egmont to the Light at West Point; and off St. Ann's Bay, in the Province of Nova Scotia, the line from the Light at Point Anconi to the nearest point on the opposite shore of the mainland.

For or near the following bays the limits of exclusion shall be three marine miles seawards from the following lines, namely:

For or near Barrington Bay, in Nova Scotia, the line from the Light on Stoddard Island to the Light on the south point of Cape Sable, thence to the Light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island Light to Green Island Light, thence to Point Rouge; for Mira Bay, the line from the Light on the east point of Scatary Island to the northeasterly point of Cape Morien.

Long Island and Bryer Island, on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that the award does not cover Hudson Bay.

Article III.

It is further agreed that the delimitation of all or any of the bays on the coast of Newfoundland, whether mentioned in the recommendations or not, does not require consideration at present.

Article IV.

The present Agreement shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof the respective Plenipotentiaries have signed this Agreement in duplicate and have hereunto affixed their seals.

Done at Washington on the 20th day of July, one thousand nine hundred and twelve.

Chandler P. Anderson. (seal.)
Alfred Mitchell Innes. (seal.)

137.

ESPAGNE, EQUATEUR.

Traité de paix et d'amitié; signé à Madrid, le 28 janvier 1885,*) suivi d'un Traité additionnel, signé à Madrid, le 23 mai 1888.**)

Gaceta de Madrid 1886, No. 177; 1889, No. 128.

Tratado de Paz y Amistad entre España y la República del Ecuador, firmado en Madrid el 28 de Enero de 1885.

S. M. el Rey de España, de una parte, y de la otra la República del Ecuador, deseando vivamente restablecer las relaciones amistosas entre ambos Países, y dando al más completo olvido los sucesos que las interrumpieron, han determinado celebrar un Tratado de Paz y Amistad que reanude los estrechos lazos que deberán unir siempre á los súbditos españoles y á los ciudadanos ecuatorianos; y al efecto

Han nombrado y constituído por sus Plenipotenciarios, á saber:

S. M. el Rey de España á D. José Elduayen, Marqués del Pazo de la Merced, Gran Cruz de la Real y distinguida Orden de Carlos III, de Leopoldo de Austria, de Pío IX, de la Legión de Honor de Francia, de San Mauricio y San Lázaro de Italia, de la Concepción de Villaviciosa de Portugal, de Leopoldo de Bélgica, de la Estrella de Rumanía, del Osmanié de Turquía y de la Corona de la Encina de los Países Bajos, Collar y Gran Cruz de la Orden de Wasa de Suecia, mi Ministro de Estado, Senador vitalicio, Ministro que ha sido de Hacienda y Ultramar, Inspector general del Cuerpo de Ingenieros de Caminos, Canales y Puertos, etc. etc.;

Y S. E. el Presidente de la República del Ecuador á D. Antonio Flores, Enviado Extraordinario y Ministro Plenipotenciario del Ecuador, ante la Santa Sede, ante varias Cortes de Europa y nombrado con igual carácter cerca de S. M. Católica, antiguo Ministro Plenipotenciario en los Estados Unidos de América, en Colombia, Chile y el Perú, ex-Senador y ex-Diputado, Comandante en Jefe que ha sido del cuerpo de reserva del Ejército restaurador de la mencionada República, Abogado de los Tribunales del Perú, Miembro correspondiente de la Real Academia Española, etc., etc.

Quienes después de haberse comunicado sus Plenos Poderes y de haberlos hallado en buena y debida forma han convenido en los artículos siguientes:

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*) L'échange des ratifications a eu lieu à Washington, le 2 janvier 1886.
**) Les ratifications ont été échangées à Madrid, le 22 mars 1889.

Artículo I.

Habrá completo olvido de lo pasado y una paz sólida é inviolable entre S. M. el Rey de España y la República del Ecuador.

Artículo II.

En virtud de lo establecido en el artículo anterior, quedan derogados los artículos del armisticio firmados por las Altas Partes contratantes en Washington con fecha 11 de Abril de 1871,*) y de ello se dará cuenta al Presidente de los Estados Unidos de América.

Artículo III.

Hasta tanto que se celebren nuevos Tratados se declara subsistente entre las Altas Partes contratantes la legalidad que precedió á la interrupción de sus relaciones.

Artículo IV.

Los Gobiernos de España y del Ecuador nombrarán respectivamente un Represente diplomático y los Agentes consulares que tengan por conveniente.

Artículo V.

El presente Tratado será ratificado. Las ratificaciones se canjearán en Madrid cuanto antes sea posible dentro del plazo de un año, contado desde esta fecha.

En fe de lo cual los respectivos Plenipotenciarios lo han firmado por duplicado y sellado con sus sellos particulares.

Hecho en Madrid á 28 de Enero de 1885.

J. Elduayen.
A. Flores.

Tratado adicional al de paz y amistad celebrado entre España y el Ecuador.

Deseando los Gobiernos del Ecuador y de España estrechar más cada día las relaciones de amistad y buena correspondencia existentes entre las dos Naciones y alejar para lo futuro todo motivo de discordia y de desavenencia, han convenido en dar mayor amplitud, por medio de un nuevo pacto internacional, á las estipulaciones consignadas en el Tratado de paz y amistad firmado en Madrid á 28 de Enero de 1885, y al efecto han nombrado por sus Plenipotenciarios, á saber:

S. M. la Reina Regente de España, en nombre de su Augusto Hijo el Rey D. Alfonso XIII, á D. Segismundo Moret y Prendergast, su Ministro de Estado;

Y el Excmo. Sr. Presidente de la República del Ecuador á D. Antonio Flores, Enviado Extraordinario y Ministro Plenipotenciario de la República del Ecuador en esta Corte:

*) V. N. R. G. 2. s. III, p. 475.

Quienes después de haber canjeado sus Plenos Poderes, hallados en buena y debida forma, han convenido en los artículos siguientes:

Artículo 1.°

Toda cuestión ó diferencias que se suscitasen entre España y el Ecuador, bien sobre la interpretación de los Tratados existentes, ó bien sobre algún punto no previsto en ellos, si no pudiera ser arreglada amistosamente, será sometida al arbitraje de una potencia amiga, propuesta y aceptada de común acuerdo.

Artículo 2.°

En el caso de que un español en el Ecuador, ó un ecuatoriano en España, tomase parte en las cuestiones interiores ó en las luchas civiles de cualquiera de los dos Estados, será tratado, juzgado, y si para ello hubiere motivo, condenado por los mismos procedimientos y Tribunales que lo sean los nacionales que se hallen en igual caso, sin que pueda reclamar la intervención diplomática para convertir el hecho personal en cuestión internacional sino en los de denegación de justicia, infracción manifiesta de la ley en el procedimiento, ó de injusticia notoria; es decir, siempre que hubiese violación manifiesta de las leyes del país donde el crimen, el delito ó la falta se hubiesen cometido.

Artículo 3.°

Queda además convenido que los Gobiernos respectivos no podrán exigirse recíprocamente responsabilidad por los daños, vejámenes ó exacciones que los naturales de una de las dos Naciones sufriese en el territorio de la otra por parte de los sublevados en tiempo de insurrección ó de guerra civil, ó por las tribus ú hordas salvajes sustraídas á la obediencia del Gobierno, á menos que resultare falta de vigilancia ó culpa por parte de las Autoridades del país ó de sus agentes declarada por los Tribunales del mismo.

Artículo 4.°

Se conviene igualmente entre las Altas Partes contratantes que los naturales de cualquiera de los dos Estados gozarán en el otro de cuantos privilegios hayan sido concedidos ó se concedan en lo sucesivo á los ciudadanos de la Nación más favorecida.

Artículo 5.°

Las Altas Partes contratantes se reservan el derecho de no admitir y el de expulsar, con arreglo á las leyes respectivas, á los individuos que por su mala vida ó por su conducta fuesen considerados perjudiciales.

Artículo 6.°

Según lo estipulado en el art. 17 del Tratado de 16 de Febrero de 1840, todo lo relativo á la navegación y al comercio se reserva para un Tratado especial que los dos Gobiernos celebrarán á la mayor brevedad,

debiendo considerarse entre tanto subsistente la legalidad á que se refiere el art. 3.º del Tratado de paz y amistad de 1885.

Artículo 7.º

El presente Tratado será ratificado.

Las ratificaciones se canjearán en el punto que designen los dos Gobiernos, dentro del plazo más breve posible.

En fe de lo cual los respectivos Plenipotenciarios lo han firmado y sellado con sus sellos particulares.

Hecho en Madrid por duplicado á 23 de Mayo de 1888.

(L. S.) Firmado *S. Moret.*
(L. S.) Firmado *A. Flores.*

138.

ITALIE, FRANCE.

Convention concernant le raccordement et l'exploitation des lignes téléphoniques entre les deux pays; signée à Rome, le 16 juillet 1899,*) suivie d'une Convention additionnelle, signée à Rome, le 18 juillet 1907.**)

Gazzetta ufficiale du 11 juin 1900 et du 14 décembre 1908.

Sa Majesté le Roi d'Italie et le Président de la République française, désirant établir des règles pour le raccordement et l'exploitation des lignes téléphoniques entre les deux pays, ont nommé pour leurs plénipotentiaires, savoir:

Sa Majesté le Roi d'Italie

Son Excellence le marquis Emilio Visconti Venosta, Sénateur du Royaume, Son Ministre des affaires étrangères, etc. etc.,

Son Excellence le marquis Antonino di San Giuliano, Député au Parlement national, Son Ministre des postes et des télégraphes, etc. etc., et

Le Président de la République Française

M. Camille Barrère, Son Ambassadeur près de Sa Majesté le Roi d'Italie, etc. etc.

Lesquels, après s'être communiqué leurs pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

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*) Les ratifications ont été échangées à Rome, le 11 mai 1900.
**) L'échange des ratifications a eu lieu à Rome, le 14 septembre 1908.

Art. 1.

La correspondance téléphonique entre la France et l'Italie est exploitée exclusivement par les deux Administrations télégraphiques des deux pays.

Elle est effectuée au moyen de fils conducteurs dont le diamètre, la conductibilité et l'isolement sont en rapport avec les conditions dans lesquelles la correspondance doit s'effectuer.

Ces fils sont disposés de façon à éviter les effets d'introduction, dans la mesure la plus large possible.

Chacune des deux Administrations fait exécuter à ses frais, sur son propre territoire, les travaux d'établissement et d'entretien des lignes téléphoniques.

Les communications téléphoniques peuvent être originaires ou à destination des postes publics et des postes d'abonnés.

Art. 2.

A moins de décision contraire prise d'un commun accord par les Administrations intéressées, les circuits spécialement constitués en vue de la correspondance téléphonique sont exclusivement affectés à ce service.

Les Administrations peuvent, également après accord, utiliser des fils télégraphiques pour l'échange des communications téléphoniques.

Art. 3.

L'unité admise, tant pour la perception des taxes que pour la durée des communications, est la Conversation de trois minutes.

Art. 4.

Les communications d'Etat jouissent de la priorité attribuée aux télégrammes d'Etat par l'article 5 de la Convention internationale de St-Pétersbourg du 10/22 juillet 1875.

Art. 5.

La taxe est acquittée par la personne qui demande la communication. Elle est formée du total des taxes élémentaires fixées comme il suit, par conversation de trois minutes:

En France: A un franc cinquante centimes (fr. 1 . 50) pour les communications originaires ou à destination des centres téléphoniques des Départements désignés ci-après:

Ain, Ardèche, Basses-Alpes, Hautes-Alpes, Alpes Maritimes, Bouches-du-Rhône, Doubs, Drôme, Isère, Jura, Loire, Rhône, Haute Saône (y compris le territoire de Belfort), Saône-et-Loire, Savoie, Haute Savoie, Var et Vaucluse. — I[re] zône —

Toutefois, cette taxe est réduite à soixante-quinze centimes (fr. 0 . 75) pour toute communication échangée entre un centre téléphonique français et un centre téléphonique italien, par l'intermédiaire de lignes ou sections de ligne dont la longueur totale réelle n'excède pas 100 kilomètres.

A deux francs (frs. 2), pour les communications originaires ou à destination des centres téléphoniques des Départements désignés ci-après.

Aisne, Allier, Ardennes, Ariège, Aube, Aude, Aveyron, Cantal, Cher, Corrèse, Côte d'Or, Creuse, Dordogne, Eure-et-Loir, Gard, Haute Garonne, Gers, Hérault, Indre-et-Loire, Loir-et-Cher, Loiret, Haute Loire, Lot, Lot-et-Garonne, Lozère, Marne, Haute Marne, Meuse, Meurthe-et-Moselle, Nievre, Puy-de-Dôme, Pyrénées-Orientales, Seine, Seine et Marne, Seine-et-Oise, Tarn, Tarn-et-Garonne, Haute Vienne, Vosges et Yonne. — (2me zône) —

A trois francs (frs. 3) pour les communications originaires ou à destination des centres téléphoniques des Départements non compris dans les deux premières zônes. — (3me zône) —

En Italie: A un franc cinquante centimes (fr. 1 . 50) pour les communications originaires ou à destination des centres téléphoniques des Provinces de Turin, Cuneo, Port-Maurice, Gênes, Alexandrie, Novare, Pavie, Milan, Côme, Bergame, Plaisance, Sondrio, Brescia, Cremone, Parme et Masse. — (Ire zône) —

Toutefois cette taxe est réduite à soixante-quinze centimes (fr. 0 . 75) pour toute communication échangée entre un centre téléphonique italien et un centre téléphonique français, par l'intermédiaire de lignes ou sections de ligne dont la longueur totale réelle n'excède pas 100 kilomètres.

A deux francs (frs. 2), pour les communications originaires ou à destination des centres téléphoniques des Provinces de Vérone, Mantoue, Vicence, Bellune, Venise, Udine, Trévise, Padoue, Rovigo, Ferrare, Reggio, Modène, Bologne, Ravenne, Forlì, Florence, Livourne, Lucque, Pise, Sienne, Grosseto, Arezzo, Pérouse, Ancone, Macerata, Ascoli, Teramo, Pesaro, Rome et Aquila. — (2me zône) —

A trois francs (frs. 3), pour les communications originaires ou à destination des centres téléphoniques non compris dans les deux premières zônes. — (3me zône) —

Les Administrations pourront, de commun accord, modifier les taxes élémentaires et les réduire pendant les heures de nuit.

Art. 6.

Les Administrations intéressées déterminent, d'un commun accord, l'affectation de chacun des circuits par lesquels peuvent s'établir les relations internationales, les villes admises à la correspondance et les heures entre lesquelles les relations sont autorisées.

Art. 7.

Après accord entre les Administrations intéressées, un régime d'abonnements à heures fixes pendant la nuit pourra être établi entre l'Italie et la France.

Art. 8.

Les Administrations désignent, d'un commun accord, les circuits à affecter, le cas échéant, aux correspondances d'abonnement, ainsi que les heures entre lesquelles ce régime est admis.

Art. 9.

La part de la taxe afférente au parcours sur son territoire est acquise à chaque Administration d'après les bases indiquées à l'art. 5.

Les recettes provenant du service téléphonique font, de la part de chaque Administration, l'objet d'un compte spécial indépendant du compte des recettes télégraphiques.

Art. 10.

Après accord, des relations peuvent s'ouvrir avec des pays voisins, en transit par les réseaux téléphoniques des Administrations contractantes.

Art. 11.

En vertu de l'art. 8 de la Convention internationale de St-Pétersbourg, chacune des Parties contractantes se réserve de suspendre totalement ou partiellement le service téléfonique, sans être tenue à aucune indemnité.

Art. 12.

Les Administrations contractantes ne sont soumises à aucune responsabilité à raison du service de la correspondance privée par voie téléphonique.

Art. 13.

Les dispositions de la présente Convention seront complétés par un règlement de service, qui sera arrêté et pourra ensuite être modifié d'un commun accord entre les Administrations intéressées.

Art. 14.

La présente Convention sera mise en exécution à la date qui sera fixée par les Administrations contractantes. Elle restera en vigueur pendant un an après que la dénonciation en aura été faite par l'une ou l'autre des Administrations intéressées.

En foi de quoi, les plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait, en double exemplaire, à Rome, le seize juillet mil huit cent quatre-vingt-dix-neuf.

(L. S.) *Visconti Venosta.* (L. S.) *C. Barrère.*
(L. S.) *San Giuliano.*

Convention

complétant les dispositions de la convention du 16 juillet 1899 relative à l'exécution du service téléphonique italo-français et portant création d'avis d'appel téléphonique.

Article unique.

Les dispositions des articles 2 et 5 de la convention conclue à Rome le 16 juillet 1899 entre l'Italie et la France, pour régler le service de

la correspondance téléphonique entre les deux pays, sont complétées comme il est indiqué ci-après:

„(Article 2). Un service d'avis d'appel des correspondants demandés au téléphone fonctionne entre réseaux italiens et réseaux français admis à communiquer téléphoniquement entre eux, à la condition que le réseau destinataire possède un service de distribution télégraphique".

„(Article 5). La taxe des avis d'appel est fixée au quart du tarif normal de jour appliquée dans les relations téléphoniques entre les deux pays, avec minimum de 0 fr. 30".

„Toutefois, lorsque la taxe de l'avis d'appel ainsi fixée comprend une fraction de décime, cette taxe est augmentée et portée au décime entier".

Fait, en double, à Rome, le dix-huit juillet mil neuf cent sept.

(L. S.) *Tittoni*
Ministre des affaires étrangères d'Italie.

(L. S.) *Camille Barrère*
Ambassadeur de France.

139.

ALLEMAGNE, AUTRICHE-HONGRIE, BELGIQUE, CHINE, ESPAGNE, ETATS-UNIS D'AMÉRIQUE, FRANCE, GRANDE-BRETAGNE, ITALIE, JAPON, PAYS-BAS, RUSSIE.

Arrangement concernant la rectification du cours du Whangpou; signé à Péking, le 27 septembre 1905.

British and Foreign State Papers XCVIII (1909), p. 1052.

Le Gouvernement Chinois étant désireux de substituer aux dispositions du Protocole de 1901,*) visant l'institution d'un Conseil Fluvial pour la Rivière Whangpou et les attributions et ressources de ce Conseil un *modus procedendi* nouveau, en faisant exécuter lui-même les travaux et en prenant à sa charge la totalité des dépenses, et les Puissances Signataires du Protocole Final ayant souscrit à ce désir, il a été convenu des conditions énoncées ci-après:

Art. I. Le Taotai des Douanes et le Commissaire des Douanes de Shanghaï sont chargés de la direction générale des travaux de rectification du cours du Whangpou et d'amélioration de la barre en deçà et au delà de Wousung, ainsi que de leur entretien.

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*) Protocole du 7 septembre 1901 (v. N. R. G. 2. s. XXXII, p. 94), art. 11.

Pour la police fluviale et sanitaire, l'éclairage et balisage, le service de pilotage, &c., il sera procédé suivant les anciens Règlements.*)

II. Trois mois après la signature du présent Accord la Chine fera elle-même choix d'un ingénieur versé dans les questions des travaux fluviaux, et si la majorité des Représentants des Puissances Signataires du Protocole Final estime que l'ingénieur ainsi choisi possède les qualités requises, la Chine le désignera sur-le-champ pour entreprendre les travaux.

Dans le cas où, après le commencement des travaux, il y aurait lieu, pour des raisons jugées valables par la majorité des Ministres intéressés, de procéder à son remplacement, le choix et la désignation du nouvel ingénieur s'effectueront dans les mêmes conditions que ci-dessus.

III. Pour tous les contrats d'entreprise générale ou partielle des travaux fluviaux, d'achat de matériel ou de machine, &c., il sera procédé par voie de soumission publique, l'adjudication devant être faite au soumissionnaire offrant les conditions les plus avantageuses.

IV. Tous les trois mois un rapport détaillé sur les travaux exécutés et un état des dépenses effectuées seront établis et adressés pour examen au Corps Consulaire à Shanghaï.

V. L'autorisation du Taotai et du Commissaire des Douanes de Shanghaï sera nécessaire pour la construction de quais et de jetées, ainsi que pour l'établissement de tous pontons ou maisons flottantes dans la rivière.

VI. Le Taotai et le Commissaire des Douanes de Shanghaï auront le droit d'exproprier les appareils de mouillage fixes existants, et d'établir un système d'appareils de mouillage publics dans la rivière.

VII. L'autorisation du Taotai et du Commissaire des Douanes sera nécessaire pour l'exécution des travaux de dragage et autres.

VIII. Le Taotai et le Commissaire des Douanes auront le droit d'acquérir tous terrains situés en dehors des Concessions étrangères, nécessaires à l'exécution des travaux d'amélioration et de conservation du Whangpou, et de disposer des dits terrains. Si, dans cet ordre d'idées, il était jugé utile d'exproprier des terrains, et si ces terrains étaient la propriété d'étrangers, le prix sera fixé par une Commission composée de

1. Une personne choisie par l'autorité Consulaire, dont le propriétaire est ressortissant.
2. Une autre choisie par le Taotai et le Commissaire des Douanes.
3. Une autre choisie par le doyen du Corps Consulaire.

Si le doyen du Corps Consulaire se trouvait être le Consul du propriétaire, le troisième membre de la Commission serait choisi par le Consul le plus ancien après le doyen. Le Consul de qui ressortira l'intéressé devra assurer l'exécution de la décision arbitrale. S'il s'agissait de propriétés Chinoises, la Douane procéderait à l'estimation et fixation du prix et à l'exécution de la décision dans des conditions analogues.

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*) Règlement pour l'amélioration du cours du Whangpou (Annexe No. 17 du Protocole signé le 7 septembre 1907). En reproduisant les dix-neuf Annexes de ce Protocole (cf. la note précédente) l'éditeur avait omis le Numéro 17. C'est pourquoi nous imprimons le Règlement ci-dessous.

Les propriétaires riverains, tant Chinois qu'étrangers, auront un droit de préférence pour l'achat ou la prise à bail de tout terrain créé en avant de leurs propriétés par les assèchements effectués pour l'amélioration de la voie fluviale. Les prix d'acquisition de ces terrains seront fixés par une Commission constituée ainsi qu'il est prescrit au paragraphe précédent ou suivant le cas par l'autorité douanière.

IX. Le Gouvernement Chinois prend à sa charge la totalité des dépenses des travaux fluviaux sans percevoir aucune taxe ou contribution sur les terrains riverains ni sur le trafic des marchandises ou la navigation.

X. La Chine indique et donne, comme garantie de la totalité des dépenses des travaux, les droits entiers sur l'opium de Ssetchouan et de Ssutcheoufou au Kiangsou. Conformément aux prévisions du Protocole de 1901, elle consacrera à ces travaux annuellement, et pendant vingt ans, une somme de 460,000 Haikouan taels. Si, dans le courant d'une année quelconque après le commencement des travaux, les achats de matériel ou de machines, &c., nécessitent une dépense exceptionnelle, la Chine, pour y faire face, pourra contracter un emprunt au moyen de bons gagés sur le revenu des droits sur l'opium précités. Pour l'amortissement et le service des intérêts de cet emprunt, ainsi que pour les dépenses de toute nature afférentes à l'exécution des travaux ou à l'entretien des travaux déjà terminés, la Chine fournira annuellement un minimum de 460,000 Haikouan taels. Les autorités provinciales compétentes remettront cette somme, par versements mensuels égaux, entre les mains du Taotai et du Commissaire des Douanes de Shanghaï.

Si les revenus désignés devenaient insuffisants, le Gouvernement Chinois devra fournir la somme spécifiée sur d'autres ressources.

XI. Si les travaux n'étaient pas effectués avec diligence, soin, et économie, le Corps Consulaire, sur une décision prise à la majorité des votes, pourra signaler le fait au Taotai et au Commissaire des Douanes de Shanghaï, et leur demander de prescrire à l'ingénieur de prendre les mesures nécessaires pour y remédier; si l'exécution des travaux continue à être défectueuse, le Corps Consulaire pourra de même recommander le renvoi de l'ingénieur, ainsi que le choix et la désignation d'un autre, dans les conditions prévues à l'Article II. Dans le cas où le Taotai et le Commissaire des Douanes de Shanghaï ne tiendraient pas compte de ces démarches, le Corps Consulaire pourra saisir de la question les Représentants des Puissances intéressées.

XII. Lorsque les présentes stipulations auront été discutées, arrêtées et signées, les stipulations contenues dans le paragraphe (*b*) de l'Article XI, et dans l'Annexe 17 du Protocole de 1901, seront suspendues; mais si la Chine ne fournit pas annuellement les fonds suffisants, conformément au nouvel Accord, de telle manière que l'exécution des travaux s'en trouve entravée, ou si elle omet de se conformer à quelque autre sti-

pulation essentielle du présent Arrangement, les stipulations primitives du Protocole de 1901 et de l'Annexe 17 reprendront immédiatement leur force.

Fait à Pékin, le 27 septembre, 1905.

(Signature du Prince de Ch'ing.)

A. v. Mumm.
A. von Rosthorn.
E. de Gaiffier.
Manuel de Carcer.
W. W. Rockhill.
G. Dubail.
Ernest Satow.
C. Baroli.
Y. Uchida.
A. J. Citters.
G. Kozakow.

[Sceau de Wai-wu Pu.]

Règlement pour l'amélioration du cours du Whangpou.*)

I. Il est établi à Shanghai un Conseil fluvial (River Conservancy Board) pour la rivière Whangpou.

II. Le Conseil aura le double devoir d'agir comme organe de rectification et d'amélioration de la voie fluviale, et comme organe de contrôle.

III. La juridiction du Conseil s'étendra depuis une ligne tirée de la limite inférieure de l'arsenal de Kiang-nan vers l'embouchure de la crique dite „de l'Arsenal", jusqu'à la bouée rouge dans le Yangtze.

IV. Le Conseil sera constitué comme suit:

(a) le Taotai;

(b) le Commissaire des Douanes;

(c) deux Membres élus par le Corps Consulaire;

(d) deux Membres de la Chambre générale de Commerce de Shanghai, élus par le comité de cette Chambre;

(e) deux Membres représentant les intérêts de la navigation, élus par les sociétés de navigation, les maisons de commerce et les négociants dont le trafic maritime, pour le total des entrées et sorties à Shanghai, à Wousong ou dans tout autre port sur le Whangpou, excède cinquante mille tonnes par an;

(f) un Membre du Conseil municipal de la Concession Internationale („International Settlement");

(g) un Membre du Conseil municipal de la Concession Française;

(h) un Représentant de chacun des Pays dont le trafic maritime, pour le total des entrées et sorties à Shanghai, à Wousong, ou dans tout autre port sur le Whangpou, excède deux cent mille tonneaux de jauge par an. Ces Représentants seront désignés par les Gouvernements des Pays en question.

*) Traités et Conventions entre l'Empire du Japon et les Puissances étrangères I, Tokyo 1908, p. 246.

V. Les Membres de droit rempliront leur mandat tant qu'ils occuperont le poste en vertu duquel ils font du Conseil.

VI. Les Représentants des Conseils municipaux et de la Chambre de Commerce seront élus pour la période d'un an. Ils seront immédiatement rééligibles.

Seront également désignés pour la période d'un an, les Représentants des Gouvernements prévus au § h de l'article IV.

Le mandat des autres Membres sera de trois ans; ils seront immédiatement rééligibles.

VII. En cas de vacance au cours d'un mandat, le successeur du membre sortant sera désigné pour un an ou pour trois ans selon la catégorie à laquelle il appartient.

VIII. Le Conseil nommera pour un an son Président et son Vice-Président, choisis parmi ses Membres. S'il n'y a pas de majorité pour l'élection du Président, le Doyen du Corps Consulaire sera prié de former une majorité par son vote.

IX. En cas d'absence du Président, celui-ci sera remplacé par le Vice-Président. Si tous deux sont absents, les Membres présents désigneront parmi eux un Président ad hoc.

X. Dans toutes les séances du Conseil, s'il y a partage égal de voix, celle du Président sera décisive.

XI. Le Conseil ne pourra délibérer que lorsque quatre de ses Membres au moins seront présents.

XII. Le Conseil nommera les fonctionnaires et employés qu'il jugera nécessaires à l'exécution des travaux et à l'application des règlements, fixera leurs appointements, salaires et gratifications, qu'il paiera sur les fonds mis à sa disposition. Il pourra édicter des règlements, prendre toutes les dispositions applicables à son personnel, et congédier celui-ci à volonté.

XIII. Le Conseil arrêtera les dispositions nécessaires à la réglementation du trafic, y compris l'installation des apparails de mouillage en rivière et la réglementation des mouillages eux-mêmes, dans les limites indiquées à l'article III, ainsi que sur toutes les voies d'eau telles que les criques de Sou-Tchéou et autres traversant la Concession Française ou la Concession Internationale („International Settlement") à Shanghai et dans le quartier étranger de Wousong, de même que sur toutes les autres criques débouchant dans la rivière, jusqu'à une distance de deux milles anglais en amont de leur embouchure.

XIV. Le Conseil aura le droit d'exproprier les appareils de mouillage fixes appartenant à des particuliers, et d'établir un système d'appareils de mouillage publics dans la rivière.

XV. L'autorisation du Conseil sera nécessaire pour l'exécution de tous travaux de dragage, de construction de quais et de jetées, ainsi que pour l'établissement de tous pontons ou maisons flottantes, dans la section de la rivière mentionnée à l'article XIII. Le Conseil pourra refuser à discrétion cette autorisation.

XVI. Le Conseil aura pleins pouvoirs pour faire enlever tous obstacles dans la rivière ou dans les criques sus-mentionnées, et pour recouvrer, si cela est nécessaire sur les personnes qui seraient responsables, les dépenses qui en résulteraient.

XVII. Le Conseil aura la disposition de tous feux flottants, bouées, balises, amers et signaux lumineux, dans la section de la rivière et dans les criques mentionnées à l'article XIII, ainsi que de tous appareils établis à terre et nécessaires à la sûreté de la navigation fluviale, à l'exception des phares, auxquels reste applicable l'article XXXII du traité de 1858 entre la Grande-Bretagne et la Chine.

XVIII. Les travaux d'amélioration et de conservation du Whangpou seront dans leur entier sous la direction technique du Conseil, même si leur exécution nécessitait des travaux en dehors des limites de sa juridiction. Dans ce cas, les ordres nécessaires seraient transmis par l'autorité Chinoise, et exécutés de son consentement.

XIX. Le Conseil encaissera et déboursera tous les fonds qui seront prélevés pour les travaux, et il prendra, d'accord avec l'autorité compétente, toutes les mesures propres à assurer le recouvrement des taxes et l'application des règlements.

XX. Le Conseil nommera le Capitaine de Port et son personnel. Ce service de port exercera son action dans les limites des pouvoirs attribués au Conseil, dans la partie de la rivière indiquée à l'article XIII.

XXI. Le Conseil aura le pouvoir d'organiser un service de police et de surveillance destiné à assurer l'exécution de ses règlements et de ses ordres.

XXII. Le Conseil aura la direction et la réglementation du service de pilotage de Shanghai („Lower Yangtze pilots"). Les brevets de pilotes patentés pour les navires se rendant à Shanghai, ne pourront être délivrés que par le Conseil, qui en disposera à son gré.

XXIII. En cas de contravention à ses règlements, le Conseil poursuivra les contrevenants de la façon suivante:

Les étrangers, devant leurs Consuls respectifs ou devant les autorités judiciaires compétentes; les Chinois ou les étrangers dont le Gouvernement n'est pas représenté en Chine, devant la Cour mixte, en présence d'un assesseur de nationalité non chinoise.

XXIV. Tout procès intenté au Conseil sera porté devant la Cour Consulaire („Court of Consuls") de Shanghai. Le Conseil sera représenté dans les procès par son secrétaire.

XXV. Les Membres du Conseil et les personnes employées par lui, ne pourront encourir aucune responsabilité personnelle du fait des votes et des actes du Conseil, des contrats passés ou des dépenses engagées par cette assemblée, lorsque lesdits votes, actes, contrats et dépenses se rapporteront soit à l'élaboration, soit à l'application, sous l'autorité ou d'après les ordres du Conseil ou de l'un des services qui en dépendent, des règlements émanant de l'assemblée en question.

XXVI. En dehors des dispositions mentionnées à l'article XIII de la présente Annexe, le Conseil aura le pouvoir de promulguer, dans les limites de sa compétence, toutes ordonnances et tous règlements nécessaires, et de fixer des amendes pour les cas de contravention.

XXVII. Les ordonnances et règlements indiqués à l'article XXVI, seront soumis à l'approbation du Corps Consulaire. Si, deux mois après la présentation du projet, le Corps Consulaire n'y a pas mis d'opposition ou suggéré de modifications, le projet sera considéré comme approuvé et exécutable.

XXVIII. Le Conseil aura le droit d'acquérir tous terrains nécessaires à l'exécution des travaux d'amélioration et de conservation du Whangpou, et de disposer desdits terrains. Si, dans cet ordre d'idées, il était jugé utile d'exproprier des terrains, on suivra les règles établies à l'article VI-a des „Land Regulations for the Foreign Settlement of Shanghai, North of the Yang-Kingpang.“ Dans ce cas, le prix sera fixé par une Commission composée de: 1⁰ une personne choisie par l'autorité dont le propriétaire est ressortissant, 2⁰ une autre, choisie par le Conseil; 3⁰ une troisième, choisie par le Doyen du Corps Consulaire.

XXIX. Les propriétaires riverains auront un droit de préférence pour l'achat de tout terrain créé en avant de leurs propriétés par les assèchements effectués pour l'amélioration des voies fluviales en question. Les prix d'acquisition de ces terrains seront fixés par une Commission constituée de la même manière qu'à l'article XXVIII.

XXX. Les revenus du Conseil se composeront de:

(a) Une taxe annuelle d'un dixième pour cent (0, $1^0/_0$) sur la valeur imposable de la propriété foncière bâtie et non bâtie dans la Concession Française et dans la Concession Internationale („International Settlement“).

(b) Une taxe égale sur toute propriété située sur les rives du Whangpou, à partir d'une ligne tirée de la limite inférieure de l'arsenal de Kiang-Nan vers l'embouchure de la crique dite „de l'Arsenal,“ jusqu'à l'endroit où le Whangpou se jette dans le Yangtze. La valeur imposable de ces propriétés sera fixée par la Commission mentionnée à l'article XXVIII.

(c) Une taxe de cinq candarins par tonne sur tout navire de type non Chinois et d'un tonnage supérieur à cent cinquante tonneaux, entrant dans les ports de Shanghai, de Wousong, ou dans tout autre port sur le Whangpou, ou en sortant.

Les navires de type non Chinois de cent cinquante tonneaux ou au-dessous paieront le quart de la taxe indiquée ci-dessus. Ces taxes ne seront applicables à chaque navire, qu'une seule fois en quatre mois, quel que soit le nombre des entrées et sorties effectuées.

Les navires de type non Chinois qui font la navigation du Yangtze et relâchent à Wousong uniquement pour y prendre leurs papiers de rivière, seront exempts des taxes susmentionnées, à la condition que ces navires ne se livrent à Wousong, tant à l'aller qu'au retour, à aucune opération

commerciale. Ils auront cependant la faculté de se ravitailler à Wousong en eau et en vivres.

(d) Une taxe d'un dixième pour cent (0, 1 %) sur toute marchandise déclarée aux douanes à Shanghai, à Wousong ou dans tout autre port sur le Whangpou.

(e) Une contribution annuelle du Gouvernement Chinois, égale à la contribution fournie par les divers intéressés étrangers.

XXXI. La perception des taxes énumérées à l'article XXX sera effectuée par l'intermédiaire des autorités suivantes:

la taxe (a), par les Municipalités respectives;

la taxe (b), à percevoir sur les ressortissants des Gouvernements représentés en Chine, par leurs Consuls respectifs; les taxes à percevoir sur les Chinois ou sur les personnes dont le Gouvernement n'est pas représenté en Chine, par le Taotai.

Les taxes (c) et (d), par la Douane Maritime Impériale.

XXXII. Si le total des revenus annuels du Conseil ne suffisait pas au paiement de l'intérêt et de l'amortissement du capital à emprunter pour l'exécution des travaux, à l'entretien des travaux achevés et au service en général, le Conseil aura la faculté d'augmenter dans la même proportion les diverses taxes sur la navigation, la propriété foncière bâtie et non bâtie, et le commerce, jusqu'à un chiffre suffisant pour faire face aux nécessités reconnues. Cette augmentation éventuelle sera appliquée dans les mêmes proportions à la contribution du Gouvernement Chinois dont il est question au § e de l'article XXX.

XXXIII. Le Conseil devra informer à l'avance le Haut-Commissaire des Ports du Sud et le Corps Consulaire de Shanghai, de la nécessité des augmentations prévues à l'article XXXII. Ces augmentations ne seront applicables que lorsque le Corps Consulaire de Shanghai les aura approuvées.

XXXIV. Le Conseil soumettra au Haut-Commissaire des Ports du Sud et au Corps Consulaire de Shanghai, dans un délai de six mois après la clôture de ses comptes annuels, un rapport détaillé sur la direction générale et sur les recettes et dépenses pendant les douze mois précédents. Ce rapport sera publié.

XXXV. Si les comptes de recettes et de dépenses, exactement tenus et publiés, démontrent qu'il y a un excédent des recettes sur les dépenses, les taxes mentionnées à l'article XXX seront réduites proportionnellement et d'un commun accord entre le Corps Consulaire de Shanghai et le Conseil fluvial. Cette réduction éventuelle s'appliquera dans les mêmes proportions à la contribution du Gouvernement Chinois dont il est question au § e de l'article XXX.

XXXVI. Après l'expiration d'un premier terme de trois ans, les signataires examineront d'un commun accord celles des dispositions contenues dans la présente Annexe qu'il y aurait lieu de reviser. Une nouvelle révision pourra avoir lieu dans les mêmes conditions, de trois ans en trois ans.

XXXVII. Dans les limites indiquées à l'article XIII, et sous réserve de leur approbation par le Corps Consulaire de Shanghai, les ordonnances du Conseil auront force de loi pour tous les étrangers.

Pékin, le 7 septembre 1901.

Pour copie conforme:

(Signé.) *A. d'Anthouard.*
(Signé.) *B. Kroupensky.*
(Signé.) *Reginald Tower.*
(Signé.) *G. v. Bohlen u. Halbach.*

140.

ETATS-UNIS D'AMÉRIQUE.

Loi concernant l'immigration et la naturalisation; du 29 juin 1906.

Statutes at Large XXXIV, 1. p. 596.

(Public—No. 338.)

An Act To establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the designation of the Bureau of Immigration in the Department of Commerce and Labor is hereby changed to the „Bureau of Immigration and Naturalization", which said Bureau, under the direction and control of the Secretary of Commerce and Labor, in addition to the duties now provided by law, shall have charge of all matters concerning the naturalization of aliens. That it shall be the duty of the said Bureau to provide, for use at the various immigration stations throughout the United States, books of record, wherein the commissioners of immigration shall cause a registry to be made in the case of each alien arriving in the United States from and after the passage of this Act of the name, age, occupation, personal description (including height, complexion, color of hair and eyes), the place of birth, the last residence, the intended place of residence in the United States, and the date of arrival of said alien, and, if entered through a port, the name of the vessel in which he comes. And it shall be the duty of said commissioners of immigration to cause to be granted to such alien a certificate of such registry, with the particulars thereof.

Sec. 2. That the Secretary of Commerce and Labor shall provide the said Bureau with such additional furnished offices within the city of Washington, such books of record and facilities, and such additional assistants, clerks, stenographers, typewriters, and other employees as may be necessary for the proper discharge of the duties imposed by this Act upon such Bureau, fixing the compensation of such additional employees until July first, nineteen hundred and seven, within the appropriations made for that purpose.

Sec. 3. That exclusive jurisdiction to naturalize aliens as citizens of the United States is hereby conferred upon the following specified courts:

United States circuit and district courts now existing, or which may hereafter be established by Congress in any State, United States district courts for the Territories of Arizona, New Mexico, Oklahoma, Hawaii, and Alaska, the supreme court of the District of Columbia, and the United States courts for the Indian Territory; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.

That the naturalization jurisdiction of all courts herein specified, State, Territorial, and Federal, shall extend only to aliens resident within the respective judicial districts of such courts.

The courts herein specified shall, upon the requisition of the clerks of such courts, be furnished from time to time by the Bureau of Immigration and Naturalization with such blank formes as may be required in the naturalization of aliens, and all certificates of naturalization shall be consecutively numbered and printed on safety paper furnished by said Bureau.

Sec. 4. That an alien may be admitted to become a citizen of the United States in the following manner and not otherwise:

First. He shall declare on oath before the clerk of any court authorized by this Act to naturalize aliens, or his authorized deputy, in the district in which such alien resides, two years at least prior to his admission, and after he has reached the age of eighteen years, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly, by name, to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject. And such declaration shall set forth the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel, if any, in which he came to the United States, and the present place of residence in the United States, of said alien: *Provided, however,* That no alien who, in conformity with the law in force at the date of his declaration, has declared his intention to become a citizen of the United States shall be required to renew such declaration.

Second. Not less than two years nor more than seven years after he has made such declaration of intention he shall make and file, in duplicate, a petition in writing, signed by the applicant in his own handwriting and duly verified, in which petition such applicant shall state his full name, his place of residence (by street and number, if possible), his occupation, and, if possible, the date and place of his birth; the place from which he emigrated, and the date and place of his arrival in the United States, and, if he entered through a port, the name of the vessel on which he arrived; the time when and the place and name of the court where he declared his intention to become a citizen of the United States; if he is married he shall state the name of his wife and, if possible, the country of her nativity and her place of residence at the time of filing his petition; and if he has children, the name, date, and place of birth and place of residence of each child living at the time of the filing of his petition: *Provided,* That if he has filed his declaration before the passage of this Act he shall not be required to sign the petition in his own handwriting.

The petition shall set forth that he is not a disbeliever in or opposed to organized government, or a member of or affiliated with any organization or body of persons teaching disbelief in or opposed to organized government, a polygamist or believer in the practice of polygamy, and that it is his intention to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by name to the prince, potentate, state, or sovereignty of which he at the time of filing of his petition may be a citizen or subject, and that it is his intention to reside permanently within the United States, and whether or not he has been denied admission as a citizen of the United States, and, if denied, the ground or grounds of such denial, the court or courts in which such decision was rendered, and that the cause for such denial has since been cured or removed, and every fact material to his naturalization and required to be proved upon the final hearing of his application.

The petition shall also be verified by the affidavits of at least two credible witnesses, who are citizens of the United States, and who shall state in their affidavits that they have personally known the applicant to be a resident of the United States for a period of at least five years continuously, and of the State, Territory, or district in which the application is made for a period of at least one year immediately preceding the date of the filing of his petition, and that they each have personal knowledge that the petitioner is a person of good moral character, and that he is in every way qualified, in their opinion, to be admitted as a citizen of the United States.

At the time of filing his petition there shall be filed with the clerk of the court a certificate from the Department of Commerce and Labor, if the petitioner arrives in the United States after the passage of this Act, stating the date, place, and manner of his arrival in the United

States, and the declaration of intention of such petitioner, which certificate and declaration shall be attached to and made a part of said petition.

Third. He shall, before he is admitted to citizenship, declare on oath in open court that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by name to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; that he will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same.

Fourth. It shall be made to appear to the satisfaction of the court admitting any alien to citizenship that immediately preceding the date of his application he has resided continuously within the United States five years at least, and within the State or Territory where such court is at the time held one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same. In addition to the oath of the applicant, the testimony of at least two witnesses, citizens of the United States, as to the facts of residence, moral character, and attachment to the principles of the Constitution shall be required, and the name, place of residence, and occupation of each witness shall be set forth in the record.

Fifth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or has been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

Sixth. When any alien who has declared his intention to become a citizen of the United States dies before he is actually naturalized the widow and minor children of such alien may, by complying with the other provisions of this Act, be naturalized without making any declaration of intention.

Sec. 5. That the clerk of the court shall, immediately after filing the petition, give notice thereof by posting in a public and conspicuous place in his office, or in the building in which his office is situated, under an appropriate heading, the name, nativity, and residence of the alien, the date and place of his arrival in the United States, and the date, as nearly as may be, for the final hearing of his petition, and the names of the witnesses whom the applicant expects to summon in his behalf; and the clerk shall, if the applicant requests it, issue a subpœna for the witnesses so named by the said applicant to appear upon the day set for the final hearing, but in case such witnesses can not be produced upon the final hearing other witnesses may be summoned.

Sec. 6. That petitions for naturalization may be made and filed during term time or vacation of the court and shall be docketed the same

day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court, and in no case shall final action be had upon a petition until at least ninety days have elapsed after filing and posting the notice of such petition: *Provided,* That no person shall be naturalized nor shall any certificate of naturalization be issued by any court within thirty days preceding the holding of any general election within its territorial jurisdiction. It shall be lawful, at the time and as a part of the naturalization of any alien, for the court, in its discretion, upon the petition of such alien, to make a decree changing the name of said alien, and his certificate of naturalization shall be issued to him in accordance therewith.

Sec. 7. That no person who disbelieves in or who is opposed to organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States, or of any other organized government, because of his or their official character, or who is a polygamist, shall be naturalized or be made a citizen of the United States.

Sec. 8. That no alien shall hereafter be naturalized or admitted as a citizen of the United States who can not speak the English language: *Provided,* That this requirement shall not apply to aliens who are physically unable to comply therewith, if they are otherwise qualified to become citizens of the United States: *And provided further,* That the requirements of this section shall not apply to any alien who has prior to the passage of this Act declared his intention to become a citizen of the United States in conformity with the law in force at the date of making such declaration: *Provided further,* That the requirements of section eight shall not apply to aliens who shall hereafter declare their intention to become citizens and who shall make homestead entries upon the public lands of the United States and comply in all respects with the laws providing for homestead entries on such lands.

Sec. 9. That every final hearing upon such petition shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant and witnesses shall be examined under oath before the court and in the presence of the court.

Sec. 10. That in case the petitioner has not resided in the State, Territory, or district for a period of five years continuously and immediately preceding the filing of his petition he may establish by two witnesses, both in his petition and at the hearing, the time of his residence within the State, provided that it has been for more than one year, and the remaining portion of his five years' residence within the United

States required by law to be established may be proved by the depositions of two or more witnesses who are citizens of the United States, upon notice to the Bureau of Immigration and Naturalization and the United States attorney for the district in which said witnesses may reside.

Sec. 11. That the United States shall have the right to appear before any court or courts exercising jurisdiction in naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of his petition concerning any matter touching or in any way affecting his right to admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings.

Sec. 12. That it is hereby made the duty of the clerk of each and every court exercising jurisdiction in naturalization matters under the provisions of this Act to keep and file a duplicate of each declaration of intention made before him and to send to the Bureau of Immigration and Naturalization at Washington, within thirty days after the issuance of a certificate of citizenship, a duplicate of such certificate, and to make and keep on file in his office a stub for each certificate so issued by him, whereon shall be entered a memorandum of all the essential facts set forth in such certificate. It shall also be the duty of the clerk of each of said courts to report to the said Bureau, within thirty days after the final hearing and decision of the court, the name of each and every alien who shall be denied naturalization, and to furnish to said Bureau duplicates of all petitions within thirty days after the filing of the same, and certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of aliens as may be required from time to time by the said Bureau.

In case any such clerk or officer acting under his direction shall refuse or neglect to comply with any of the foregoing provisions he shall forfeit and pay to the United States the sum of twenty-five dollars in each and every case in which such violation or omission occurs, and the amount of such forfeiture may be recovered by the United States in an action of debt against such clerk.

Clerks of courts having and exercising jurisdiction in naturalization matters shall be responsible for all blank certificates of citizenship received by them from time to time from the Bureau of Immigration and Naturalization, and shall account for the same to the said Bureau whenever required so to do by such Bureau. No certificate of citizenship received by any such clerk which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificate shall be returned to the said Bureau; and in case any such clerk shall fail to return or properly account for any certificate furnished by the said Bureau, as herein provided, he shall be liable to the United States in the sum of fifty dollars, to be recovered in an action of debt, for each and every certificate not properly accounted for or returned.

Sec. 13. That the clerk of each and every court exercising jurisdiction in naturalization cases shall charge, collect, and account for the following fees in each proceeding:

For receiving and filing a declaration of intention and issuing a duplicate thereof, one dollar.

For making, filing, and docketing the petition of an alien for admission as a citizen of the United States and for the final hearing thereon, two dollars; and for entering the final order and the issuance of the certificate of citizenship thereunder, if granted, two dollars.

The clerk of any court collecting such fees is hereby authorized to retain one-half of the fees collected by him in such naturalization proceeding; the remaining one-half of the naturalization fees in each case collected by such clerks, respectively, shall be accounted for in their quarterly accounts, which they are hereby required to render the Bureau of Immigration and Naturalization, and paid over to such Bureau within thirty days from the close of each quarter in each and every fiscal year, and the moneys so received shall be paid over to the disbursing clerk of the Department of Commerce and Labor, who shall thereupon deposit them in the Treasury of the United States, rendering an account therefor quarterly to the Auditor for the State and other Departments, and the said disbursing clerk shall be held responsible under his bond for said fees so received.

In addition to the fees herein required, the petitioner shall, upon the filing of his petition to become a citizen of the United States, deposit with and pay to the clerk of the court a sum of money sufficient to cover the expenses of subpœnaing and paying the legal fees of any witnesses for whom he may request a subpœna, and upon the final discharge of such witnesses they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner: *Provided,* That the clerks of courts exercising jurisdiction in naturalization proceedings shall be permitted to retain one-half of the fees in any fiscal year up to the sum of three thousand dollars, and that all fees received by such clerks in naturalization proceedings in excess of such amount shall be accounted for and paid over to said Bureau as in case of other fees to which the United States may be entitled under the provisions of this Act. The clerks of the various courts exercising jurisdiction in naturalization proceedings shall pay all additional clerical force that may be required in performing the duties imposed by this Act upon the clerks of courts from fees received by such clerks in naturalization proceedings. And in case the clerk of any court collects fees in excess of the sum of six thousand dollars in any one year, the Secretary of Commerce and Labor may allow to such clerk from the money which the United States shall receive additional compensation for the employment of additional clerical assistance, but for no other purpose, if in the opinion of the said Secretary the business of such clerk warrants such allowance.

Sec. 14. That the declarations of intention and the petitions for naturalization shall be bound in chronological order in separate volumes, indexed, consecutively numbered, and made part of the records of the court. Each certificate of naturalization issued shall bear upon its face, in a place prepared therefor, the volume number and page number of the petition whereon such certificate was issued, and the volume number and page number of the stub of such certificate.

Sec. 15. That it shall be the duty of the United States district attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court having jurisdiction to naturalize aliens in the judicial district in which the naturalized citizen may reside at the time of bringing the suit, for the purpose of setting aside and canceling the certificate of citizenship on the ground of fraud or on the ground that such certificate of citizenship was illegally procured. In any such proceedings the party holding the certificate of citizenship alleged to have been fraudulently or illegally procured shall have sixty days personal notice in which to make answer to the petition of the United States; and if the holder of such certificate be absent from the United States or from the district in which he last had his residence, such notice shall be given by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

If any alien who shall have secured a certificate of citizenship under the provisions of this Act shall, within five years after the issuance of such certificate, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such alien to become a permanent citizen of the United States at the time of filing his application for citizenship, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the cancellation of his certificate of citizenship as fraudulent, and the diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those within their respective jurisdictions who have such certificates of citizenship and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to cancel certificates of citizenship.

Whenever any certificate of citizenship shall be set aside or canceled, as herein provided, the court in which such judgment or decree is rendered shall make an order canceling such certificate of citizenship and shall send a certified copy of such order to the Bureau of Immigration and Naturalization; and in case such certificate was not originally issued by the court making such order it shall direct the clerk of the court to transmit a copy of such order and judgment to the court out of which such certificate of citizenship shall have been originally issued. And it shall thereupon be

the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of citizenship upon the records and to notify the Bureau of Immigration and Naturalization of such cancellation.

The provisions of this section shall apply not only to certificates of citizenship issued under the provisions of this Act, but to all certificates of citizenship which may have been issued heretofore by any court exercising jurisdiction in naturalization proceedings under prior laws.

Sec. 16. That every person who falsely makes, forges, counterfeits, or causes or procures to be falsely made, forged, or counterfeited, or knowingly aids or assists in falsely making, forging, or counterfeiting any certificate of citizenship, with intent to use the same, or with the intent that the same may be used by some other person or persons, shall be guilty of a felony, and a person convicted of such offense shall be punished by imprisonment for not more than ten years, or by a fine of not more than ten thousand dollars, or by both such fine and imprisonment.

Sec. 17. That every person who engraves or causes or procures to be engraved, or assists in engraving, any plate in the likeness of any plate designed for the printing of a certificate of citizenship, or who sells any such plate, or who brings into the United States from any foreign place any such plate, except under the direction of the Secretary of Commerce and Labor, or other proper officer, and any person who has in his control, custody, or possession any metallic plate engraved after the similitude of any plate from which any such certificate has been printed, with intent to use such plate or suffer the same to be used in forging or counterfeiting any such certificate or any part thereof; and every person who prints, photographs, or in any other manner causes to be printed, photographed, made, or executed, any print or impression in the likeness of any such certificate, or any part thereof, or who sells any such certificate, or brings the same into the United States from any foreign place, except by direction of some proper officer of the United States, or who has in his possession a distinctive paper which has been adopted by the proper officer of the United States for the printing of such certificate, with intent to unlawfully use the same, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment at hard labor for not more than ten years, or by both such fine and imprisonment.

Sec. 18. That it is hereby made a felony for any clerk or other person to issue or be a party to the issuance of a certificate of citizenship contrary to the provisions of this Act, except upon a final order under the hand of a court having jurisdiction to make such order, and upon conviction thereof such clerk or other person shall be punished by imprisonment for not more than five years and by a fine of not more than five thousand dollars, in the discretion of the court.

Sec. 19. That every person who without lawful excuse is possessed of any blank certificate of citizenship provided by the Bureau of Immigration

and Naturalization, with intent unlawfully to use the same, shall be imprisoned at hard labor not more than five years or be fined not more than one thousand dollars.

Sec. 20. That any clerk or other officer of a court having power under this Act to naturalize aliens, who willfully neglects to render true accounts of moneys received by him for naturalization proceedings or who willfully neglects to pay over any balance of such moneys due to the United States within thirty days after said payment shall become due and demand therefor has been made and refused, shall be deemed guilty of embezzlement of the public moneys, and shall be punishable by imprisonment for not more than five years, or by a fine of not more than five thousand dollars, or both.

Sec. 21. That it shall be unlawful for any clerk of any court or his authorized deputy or assistant exercising jurisdiction in naturalization proceedings, or to demand, charge, collect, or receive any other or additional fees or moneys in naturalization proceedings save the fees and moneys herein specified; and a violation of any of the provisions of this section or any part thereof is hereby declared to be a misdemeanor and shall be punished by imprisonment for not more than two years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.

Sec. 22. That the clerk of any court exercising jurisdiction in naturalization proceedings, or any person acting under authority of this Act, who shall knowingly certify that a petitioner, affiant, or witness named in an affidavit, petition, or certificate of citizenship, or other paper or writing required to be executed under the provisions of this Act, personally appeared before him and was sworn thereto, or acknowledged the execution thereof or signed the same, when in fact such petitioner, affiant, or witness did not personally appear before him, or was not sworn thereto, or did not execute the same, or did not acknowledge the execution thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not to exceed five years.

Sec. 23. That any person who knowingly procures naturalization in violation of the provisions of this Act shall be fined not more than five thousand dollars, or shall be imprisoned not more than five years, or both, and upon conviction the court in which such conviction is had shall thereupon adjudge and declare the final order admitting such person to citizenship void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication. Any person who knowingly aids, advises, or encourages any person not entitled thereto to apply for or to secure naturalization, or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who knowingly makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both.

Sec. 24. That no person shall be prosecuted, tried, or punished for any crime arising under the provisions of this Act unless the indictment is found or the information is filed within five years next after the commission of such crime.

Sec. 25. That for the purpose of the prosecution of all crimes and offenses against the naturalization laws of the United States which may have been committed prior to the date when this Act shall go into effect, the existing naturalization laws shall remain in full force and effect.

Sec. 26. That sections twenty-one hundred and sixty-five, twenty-one hundred and sixty-seven, twenty-one hundred and sixty-eight, twenty-one hundred and seventy-three, of the Revised Statutes of the United-States of America, and section thirty-nine of chapter one thousand and twelve of the Statutes at Large of the United States of America for the year nineteen hundred and three, and all Acts or parts of Acts inconsistent with or repugnant to the provisions of this Act are hereby repealed.

Sec. 27. That substantially the following forms shall be used in the proceedings to which they relate:

Declaration of intention.

(Invalid for all purposes seven years after the date hereof.)

. . . ., ss:

I, ..., aged . . . . . . years, occupation . . . . . ., do declare on oath (affirm) that my personal description is: Color . . . ., complexion . . . ., height . . . ., weight . . . ., color of hair . . . ., color of eyes . . . ., other visible distinctive marks . . . .; I was born in . . . . on the . . . . day of . . . . . ., anno Domini . . . . . .; I now reside at . . . .; I emigrated to the United States of America from . . . . on the vessel . . . .; my last foreign residence was . . . . It is my bona fide intention to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to . . . . . ., of which I am now a citizen (subject); I arrived at the (port) of . . . ., in the State (Territory or District) of . . . . on or about the . . . . . . day of . . . . . . anno Domini . . . . . .; I am not an anarchist; I am not a polygamist nor a believer in the practice of polygamy; and it is my intention in good faith to become a citizen of the United States of America and to permanently reside therein. So help me God.

(Original signature of declarant) . . . .

Subscribed and sworn to (affirmed) before me this . . . . day of . . . . . ., anno Domini . . . .

[L. S.] . . . .

(Official character of attestor.)

Petition for naturalization.

...... Court of ....

In the matter of the petition of .... to be admitted as a citizen of the United States of America.

To the ...... Court:

The petition of .... respectfully shows:

First. My full name is ....

Second. My place of residence is number .... street, city of ...., State (Territory or District) of ....

Third. My occupation is ....

Fourth. I was born on the .... day of ...... at ....

Fifth. I emigrated to the United States from ...., on or about the .... day of ...., anno Domini ...., and arrived at the port of ...., in the United States, on the vessel ....

Sixth. I declared my intention to become a citizen of the United States on the ...... day of ...... at ......, in the ...... court of ......

Seventh. I am ... married. My wife's name is .... She was born in ...... and now resides at .... I have ...... children, and the name, date, and place of birth and place of residence of each of said children is as follows: ....; ....; ....

Eighth. I am not a disbeliever in or opposed to organized government or a member of or affiliated with any organization or body of persons teaching disbelief in organized government. I am not a polygamist nor a believer in the practice of polygamy. I am attached to the principles of the Constitution of the United States and it is my intention to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to ...., of which at this time I am a citizen (or subject), and it is my intention to reside permanently in the United States.

Ninth. I am able to speak the English language.

Tenth. I have resided continuously in the United States of America for a term of five years at least immediately preceding the date of this petition, to wit, since ...., anno Domini ...., and in the State (Territory or District) of ...... for one year at least next preceding the date of this petition, to wit, since .... day of ...., anno Domini ....

Eleventh. I have not heretofore made petition for citizenship to any court. (I made petition for citizenship to the .... court of .... at ...., and the said petition was denied by the said court for the following reasons and causes, to wit, ..., and the cause of such denial has since been cured or removed.)

Attached hereto and made a part of this petition are my declaration of intention to become a citizen of the United States and the certificate

from the Department of Commerce and Labor required by law. Wherefore your petitioner prays that he may be admitted a citizen of the United States of America.

Dated . . . .

(Signature of petitioner) . . . .

. . . ., ss:

. . . ., being duly sworn, deposes and says that he is the petitioner in the above-entitled proceeding; that he has read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

Subscribed and sworn to before me this . . . . . . day of . . . . . ., anno Domini . . . .

[L. S.] . . . .

Clerk of the . . . . . . Court.

Affidavit of Witnesses.

. . . . . . Court of . . . . . .

In the matter of the petition of . . . . to be admitted a citizen of the United States of America.

. . . ., ss:

. . . ., occupation . . . . . ., residing at . . . . . ., and . . . ., occupation . . . ., residing at . . . ., each being severally, duly, and respectively sworn, deposes and says that he is a citizen of the United States of America; that he has personally known . . . ., the petitioner above mentioned, to be a resident of the United States for a period of at least five years continuously immediately preceding the date of filing his petition, and of the State (Territory or District) in which the above-entitled application is made for a period of . . . . . . years immediately preceding the date of filing his petition; and that he has personal knowledge that the said petitioner is a person of good moral character, attached to the principles of the Constitution of the United States, and that he is in every way qualified, in his opinion, to be admitted as a citizen of the United States.

. . . .

. . . .

Subscribed and sworn to before me this . . . . . . day of . . . . . ., nineteen hundred and . . . .

[L. S.] . . . .

(Official character of attestor).

Certificate of naturalization.

Number ....
Petition, volume ......, page ......
Stub, volume ......, page ......

(Signature of holder) ....

Description of holder: Age, ...; height, ...; color, ...; complexion, ...; color of eyes, ...; color of hair, ...; visible distinguishing marks, ... Name, age, and place of residence of wife, ..., ..., ... Names, ages, and places of residence of minor children, ..., ..., ...; ......, ..., ...; ......, ..., ...

..............., ss:

Be it remembered, that at a .... term of the .... court of ......, held at ...... on the ...... day of ......, in the year of our Lord nineteen hundred and ...., ..., who previous to his (her) naturalization was a citizen or subject of ......, at present residing at number .... street, ... city (town), ... State (Territory or District), having applied to be admitted a citizen of the United States of America pursuant to law, and the court having found that the petitioner had resided continuously within the United States for at least five years and in this State for one year immediately preceding the date of the hearing of his (her) petition, and that said petitioner intends to reside permanently in the United States, had in all respects complied with the law in relation thereto, and that ... he was entitled to be so admitted, it was thereupon ordered by the said court that ... he be admitted as a citizen of the United States of America.

In testimony whereof the seal of said court is hereunto affixed on the ...... day of ......, in the year of our Lord nineteen hundred and ......, and of our independence the ......

[L. S.] ....,

(Official character of attestor).

Stub of certificate of naturalization.

No. of certificate, ...
Name ....; age, ...
Declaration of intention, volume ......, page ......
Petition, volume ......, page ......

Name, age, and place of residence of wife, ..., ..., ... Names, ages, and places of residence of minor children, ..., ..., ...; ....., ..., ..., ..., ..., ..., ..., ..., ..., ..., ..., ..., ...
....
....

Date of order, volume ......, page ......

(Signature of holder) ....

Sec. 28. That the Secretary of Commerce and Labor shall have power to make such rules and regulations as may be necessary for properly carrying into execution the various provisions of this Act. Certified copies of all papers, documents, certificates, and records required to be used, filed, recorded, or kept under any and all of the provisions of this Act shall be admitted in evidence equally with the originals in any and all proceedings under this Act and in all cases in which the originals thereof might be admissible as evidence.

Sec. 29. That for the purpose of carrying into effect the provisions of this Act there is hereby appropriated the sum of one hundred thousand dollars, out of any moneys in the Treasury of the United States not otherwise appropriated, which appropriation shall be in full for the objects hereby expressed until June thirtieth, nineteen hundred and seven; and the provisions of section thirty-six hundred and seventy-nine of the Revised Statutes of the United States shall not be applicable in any way to this appropriation.

Sec. 30. That all the applicable provisions of the naturalization laws of the United States shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States, and who may become residents of any State or organized Territory of the United States, with the following modifications: The applicant shall not be required to renounce allegiance to any foreign sovereignty; he shall make his declaration of intention to become a citizen of the United States at least two years prior to his admission; and residence within the jurisdiction of the United States, owing such permanent allegiance, shall be regarded as residence within the United States within the meaning of the five years' residence clause of the existing law.

Sec. 31. That this Act shall take effect and be in force from and after ninety days from the date of its passage: *Provided*, That sections one, two, twenty-eight, and twenty-nine shall go into effect from and after the passage of this Act.

Approved, June 29, 1906.

141.

ETATS-UNIS D'AMÉRIQUE.

Loi sur l'immigration; du 20 février 1907.

Statutes at Large XXXIV, 1. p. 898.

[Public—No. 96.]

An Act To regulate the immigration of aliens into the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be levied, collected, and paid a tax of four dollars for every alien entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States. The money thus collected, together with all fines and rentals collected under the laws regulating the immigration of aliens into the United States, shall be paid into the Treasury of the United States, and shall constitute a permanent appropriation to be called the „immigrant fund," to be used under the direction of the Secretary of Commerce and Labor to defray the expense of regulating the immigration of aliens into the United States under said laws, including the contract labor laws, the cost of reports of decisions of the Federal courts, and digest thereof, for the use of the Commissioner-General of Immigration, and the salaries and expenses of all officers, clerks, and employees appointed to enforce said laws. The tax imposed by this section shall be a lien upon the vessel, or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel, or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied upon aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor upon otherwise admissible residents of any possession of the United States, nor upon aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section thirty-two of

this Act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That if in any fiscal year the amount of money collected under the provisions of this section shall exceed two million five hundred thousand dollars, the excess above that amount shall not be added to the „immigrant fund:" *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam, Porto Rico, or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone.

Sec. 2.*) That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy, anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or of all forms of law, or the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons hereinafter called contract laborers, who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; those who have been, within one year from the date of application for admission to the United States, deported as having been induced or solicited to migrate as above described; any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes, and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign government, either directly or indirectly; all children under sixteen years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regula-

*) Modifiée par la Loi du 26 mars 1910; ci-dessous, No. 143.

tions as he may from time to time prescribe: *Provided*, That nothing in this Act shall exclude, if otherwise admissible, persons convicted of an offense purely political not involving moral turpitude: *Provided further*, That the provisions of this section relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *And provided further*, That skilled labor may be imported if labor of like kind unemployed can not be found in this country: *And provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants.

Sec. 3. That the importation into the United States of any alien woman or girl for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States, any alien woman or girl for the purpose of prostitution, or for any other immoral purpose, or whoever shall hold or attempt to hold any alien woman or girl for any such purpose in pursuance of such illegal importation, or whoever shall keep, maintain, control, support, or harbor in any house or other place, for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl, within three years after she shall have entered the United States, shall, in every such case, be deemed guilty of a felony, and on conviction thereof be imprisoned not more than five years and pay a fine of not more than five thousand dollars; and any alien woman or girl who shall be found an inmate of a house of prostitution or practicing prostitution, at any time within three years after she shall have entered the United States, shall be deemed to be unlawfully within the United States and shall be deported as provided by sections twenty and twenty-one of this Act.

Sec. 4. That it shall be a misdemeanor for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to assist or encourage the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the terms of the last two provisos contained in section two of this Act.

Sec. 5. That for every violation of any of the provisions of section four of this Act the persons, partnership, company, or corporation violating the same, by knowingly assisting, encouraging, or soliciting the migration or importation of any contract laborer into the United States shall forfeit and pay for every such offense the sum of one thousand dollars, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such alien thus promised labor or service of any kind as aforesaid, as debts of like amount are now recovered in the courts of the United States; and separate suits may be brought for each alien thus promised labor or service of any kind as aforesaid. And it shall be the duty of the district attorney of the proper district to prosecute every such suit when brought by the United States.

Sec. 6. That it shall be unlawful and be deemed a violation of section four of this Act to assist or encourage the importation or migration of any alien by promise of employment through advertisements printed and

published in any foreign country; and any alien coming to this country in consequence of such an advertisement shall be treated as coming under promise or agreement as contemplated in setion two of this Act, and the penalties imposed by section five of this Act shall be applicable to such a case: *Provided*, That this section shall not apply to States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States advertising the inducements they offer for immigration thereto, respectively.

Sec. 7. That no transportation company or owner or owners of vessels, or others engaged in transporting aliens into the United States, shall, directly or indirectly, either by writing, printing, or oral representation, solicit, invite, or encourage the immigration of any aliens into the United States, but this shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, stating the sailings of their vessels and terms and facilities of transportation therein; and for a violation of this provision, any such transportation company, and any such owner or owners of vessels, and all others engaged in transporting aliens into the United States, and the agents by them employed, shall be severally subjected to the penalties imposed by section five of this Act.

Sec. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or who shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter the United States shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

Sec. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel to bring to the United States any alien subject to any of the following disabilities: Idiots, imbeciles, epileptics, or persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of one hundred dollars for each and every violation of the provisions of this section; and no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, and in the event

such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded; *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

Sec. 10. That the decision of the board of special inquiry, hereinafter provided for, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section two of this Act.

Sec. 11. That upon the certificate of a medical officer of the United States Public Health and Marine Hospital Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

Sec. 12. That upon the arrival of any alien by water at any port within the United States it shall be the duty of the master or commanding officer of the steamer, sailing or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, state as to each alien the full name, age, and sex; whether married or single; the calling or occupation; whether able to read or write; the nationality; the race; the last residence; the name and address of the nearest relative in the country from which the alien came; the seaport for landing in the United States; the final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; whether the alien has paid his own passage or whether it has been paid by any other person or by any corporation, society, municipality, or government, and if so, by whom; whether in possession of fifty dollars, and if less, how much; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States, and what is the alien's condition of health, mental and physical, and whether deformed or crippled, and if so, for how long and from what cause; that it shall further be the duty of the master or commanding officer of every vessel taking alien passengers out of the

United States, from any port thereof, to file before departure therefrom with the collector of customs of such port a complete list of all such alien passengers taken on board. Such list shall contain the name, age, sex, nationality, residence in the United States, occupation, and the time of last arrival of every such alien in the United States, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the collector of customs at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each alien taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section fifteen of this Act. That the collector of customs with whom any such list has been deposited in accordance with the provisions of this section, shall promptly notify the Commissioner-General of Immigration that such list has been deposited with him as provided, and shall make such further disposition thereof as may be required by regulations to be issued by the Commissioner-General of Immigration with the approval of the Secretary of Commerce and Labor: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner-General of Immigration, with the approval of the Secretary of Commerce and Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of the master or commanding officer of any vessel sailing from ports in the Philippine Islands, Guam, Porto Rico, or Hawaii to any port of the United States on the North American Continent to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation, giving the names of all aliens on board said vessel.

Sec. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, and no one list or manifest shall contain more than thirty names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and so forth, is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath of affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is an idiot, or imbecile, or a feeble-minded person, or insane person, or a pauper, or is likely to become a public charge, or is afflicted with tuberculosis or with a loathsome or dangerous contagious disease, or is a person who has been convicted of, or who admits having committed a felony or other crime or misdemeanor involving moral turpitude, or is a polygamist or one admitting belief in the practice of polygamy, or an anarchist, or under promise or agreement,

express or implied, to perform labor in the United States, or a prostitute, or a woman or girl coming to the United States for the purpose of prostitution, or for any other immoral purpose, and that also, according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect.

Sec. 14. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessel.

Sec. 15. That in the case of the failure of the master or commanding officer of any vessel to deliver to the said immigration officers lists or manifests of all aliens on board thereof, as required in sections twelve, thirteen, and fourteen of this Act, he shall pay to the collector of customs at the port of arrival the sum of ten dollars for each alien concerning whom the above information is not contained in any list as aforesaid: *Provided,* That in the case of failure without good cause to deliver the list of passengers required by section twelve of this Act from the master or commanding officer of every vessel taking alien passengers out of the United States, the penalty shall be paid to the collector of customs at the port of departure and shall be a fine of ten dollars for each alien not included in said list; but in no case shall the aggregate fine exceed one hundred dollars.

Sec. 16. That upon the receipt by the immigration officers at any port of arrival of the lists or manifests of incoming aliens provided for in sections twelve, thirteen, and fourteen of this Act, it shall be the duty of said officers to go or to send competent assistants to the vessel to which said lists or manifests refer, and there inspect all such aliens, or said immigration officers may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this Act, bind the said transportation lines, masters, agents, owners, or consignees: *Provided,* That where a suitable building is used for the detention and examination of aliens the immigration officials shall there take charge of such aliens, and the transportation companies, masters, agents, owners, and consignees of the vessels bringing such aliens shall

be relieved of the responsibility for their detention thereafter until the return of such aliens to their care.

Sec. 17. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health and Marine-Hospital Service, who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine and who shall certify for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien, or, should medical officers of the United States Public Health and Marine-Hospital Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner-General of Immigration under the direction or with the approval of the Secretary of Commerce and Labor. The United States Public Health and Marine-Hospital Service shall be reimbursed by the immigration service for all expenditures incurred in carrying out the medical inspection of aliens under regulations of the Secretary of Commerce and Labor.

Sec. 18. That it shall be the duty of the owners, officers, or agents of any vessel or transportation line, other than those railway lines which may enter into a contract as provided in section thirty-two of this Act, bringing an alien to the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the negligent failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and be punished by a fine in each case of not less than one hundred nor more than one thousand dollars or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; and every such alien so landed shall be deemed to be unlawfully in the United States and shall be deported as provided in sections twenty and twenty-one of this Act.

Sec. 19. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came; and if any master, person in charge, agent, owner, or consignee of any such vessel shall refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens, or shall fail to detain them thereon, or shall refuse or fail to return them to the foreign port from which they came, or to pay the cost of their maintenance while on land, or shall make any charge for the return of any such alien, or shall take any security from him for the payment of such charge, such master, person in charge, agent, owner, or consignee shall be deemed guilty of a misdemeanor and shall, on conviction, be punished by a fine of not less than three hundred dollars

for each and every such offense; and no vessel shall have clearance from any port of the United States while any such fine is unpaid: *Provided,* That the Commissioner-General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner-General of Immigration, the deportation of any alien found to have come in violation of any provision of this Act, if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this Act: *Provided,* That the cost of maintenance of any person so detained resulting from such suspension of deportation shall be paid from the „immigrant fund" but no alien certified, as provided in section seventeen of this Act, to be suffering from tuberculosis or from a loathsome or dangerous contagious disease other than one of quarantinable nature shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided,* That upon the certificate of a medical officer of the United States Public Health and Marine-Hospital Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the „immigrant fund," be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported.

Sec. 20. That any alien who shall enter the United States in violation of law, and such as become public charges from causes existing prior to landing, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported to the country whence he came at any time within three years after the date of his entry into the United States. Such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the „immigrant fund" provided for in section one of this Act, and the deportation from such port shall be at the expense of the owner or owners of such vessel or transportation line by which such aliens respectively came: *Provided,* That pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than five hundred dollars with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

Sec. 21. That in case the Secretary of Commerce and Labor shall be satisfied that an alien has been found in the United States in violation of this Act, or that an alien is subject to deportation under the provisions of this Act or of any law of the United States, he shall cause such alien within the period of three years after landing or entry therein

to be taken into custody and returned to the country whence he came, as provided by section twenty of this Act, and a failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and return to the country whence he came any alien ordered to be deported under the provisions of this Act shall be punished by the imposition of the penalties prescribed in section nineteen of this Act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner.

Sec. 22. That the Commissioner-General of Immigration, in addition to such other duties as may by law be assigned to him, shall, under the direction of the Secretary of Commerce and Labor, have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder. He shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this Act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid; all under the direction or with the approval of the Secretary of Commerce and Labor. And it shall be the duty of the Commissioner-General of Immigration to detail officers of the immigration service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges: *Provided*, That the Commissioner-General of Immigration may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this Act, detail immigration officers, and also surgeons, in accordance with the provisions of section seventeen, for service in foreign countries.

Sec. 23. That the duties of the commissioners of immigration shall be of an administrative character, to be prescribed in detail by regulations prepared, under the direction or with the approval of the Secretary of Commerce and Labor.

Sec. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of

Commerce and Labor, upon the recommendation of the Commissioner-General of Immigration and in accordance with the provisions of the civil-service Act of January sixteenth, eighteen hundred and eighty-three: *Provided*, That said Secretary, in the enforcement of that portion of this Act which excludes contract laborers, may employ, without reference to the provisions of the said civil service Act, or to the various Acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw from the „immigrant fund" annually fifty thousand dollars or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation Act approved August eighteenth, eighteen hundred and ninety-four, or the official status of such commissioners heretofore appointed. Immigration officers shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered under the provisions of this Act who shall knowingly or wilfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission to the United States shall be deemed guilty of perjury and be punished as provided by section fifty-three hundred and ninety-two, United States Revised Statutes. The decision of any such officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry.

Sec. 25. That such boards of special inquiry shall be appointed by the commissioner of immigration at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner-General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards: *Provided*, That at ports where there are fewer than three immigrant inspectors, the

Secretary of Commerce and Labor, upon the recommendation of the Commissioner-General of Immigration, may designate other United States officials for service on such boards of special inquiry. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before boards shall be separate and apart from the public, but the said boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner-General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision which shall be rendered solely upon the evidence adduced before the board of special inquiry: *Provided,* That in every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of the appropriate immigration officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of Commerce and Labor; but nothing in this section shall be construed to admit of any appeal in the case of an alien rejected as provided for in section ten of this Act.

Sec. 26. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary in such amount and containing such conditions as he may prescribe, to the people of the United States, holding the United States or any State, Territory, county, municipality, or district thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, district, county, or municipality in which such alien becomes a public charge.

Sec. 27. That no suit or proceeding for a violation of the provisions of this Act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

Sec. 28. That nothing contained in this Act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this Act; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters the laws or parts of laws repealed or amended by this Act are hereby continued in force and effect.

Sec. 29. That the circuit and district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this Act.

Sec. 30. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe: *Provided*, That no intoxicating liquors shall be sold in any such immigrant station; that all receipts accruing from the disposal of such exclusive privileges as herein provided shall be paid into the Treasury of the United States to the credit of the „immigrant fund“ provided for in section one of this Act.

Sec. 31. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

Sec. 32. That the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy passengers in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose.

Sec. 33. That for the purpose of this Act the term „United States“ as used in the title as well as in the various sections of this Act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone: *Provided,* That if any alien shall leave the canal zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this Act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens.

Sec. 34. That the Commissioner-General of Immigration, with the approval of the Secretary of Commerce and Labor, may appoint a commissioner of immigration to discharge at New Orleans, Louisiana, the duties now required of other commissioners of immigration at their respective posts.

Sec. 35. That the deportation of aliens arrested within the United States after entry and found to be illegally therein, provided for in this Act, shall be to the trans-Atlantic or trans-Pacific ports from which said aliens embarked for the United States; or, if such embarkation was for-

foreign contiguous territory, to the foreign part at which said aliens embarked for such territory.

Sec. 36. That all aliens who shall enter the United States except at the seaports thereof, or at such place or places as the Secretary of Commerce and Labor may from time to time designate, shall be adjudged to have entered the country unlawfully and shall be deported as provided by sections twenty and twenty-one of this Act: *Provided*, That nothing contained in this section shall affect the power conferred by section thirty-two of this Act upon the Commissioner-General of Immigration to prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico.

Sec. 37. That whenever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife, or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable, or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable or that they can be permitted to land without danger to other persons, they shall, if otherwise admissible, thereupon be admitted.

Sec. 38. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, shall be permitted to enter the United States or any territory or place subject to the jurisdiction thereof. This section shall be enforced by the Secretary of Commerce and Labor under such rules and regulations as he shall prescribe. That any person who knowingly aids or assists any such person to enter the United States or any territory or place subject to the jurisdiction thereof, or who connives or conspires with any person or persons to allow, procure, or permit any such person to enter therein, except pursuant to such rules and regulations made by the Secretary of Commerce and Labor shall be fined not more than five thousand dollars, or imprisoned for not more than five years, or both.

Sec. 39. That a commission is hereby created, consisting of three Senators, to be appointed by the President of the Senate, and three members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, and three persons, to be appointed by the Pre-

sident of the United States. Said commission shall make full inquiry, examination, and investigation by sub-committee or otherwise into the subject of immigration. For the purpose of said inquiry, examination, and investigation, said commission is authorized to send for persons and papers, make all necessary travel, either in the United States or any foreign country, and, through the chairman of the commission or any member thereof to administer oaths and to examine witnesses and papers respecting all matters pertaining to the subject, and to employ necessary clerical and other assistance. Said commission shall report to the Congress the conclusions reached by it and make such recommendations as in its judgment may seem proper. Such sums of money as may be necessary for the said inquiry, examination, and investigation are hereby appropriated and authorized to be paid out of the „immigrant fund" on the certificate of the chairman of said commission, including all expenses of the commissioners and a reasonable compensation, to be fixed by the President of the United States, for those members of the commission who are not members of Congress; and the President of the United States is also authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

Sec. 40. Authority is hereby given the Commissioner-General of Immigration to establish, under the direction and control of the Secretary of Commerce and Labor, a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens who may ask for such information at the immigrant stations of the United States and to such other persons as may desire the

same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner-General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner-General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

Sec. 41. That nothing in this Act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests.

Sec. 42. It shall not be lawful for the master of a steamship or other vessel whereon immigrant passengers, or passengers other than cabin passengers, have been taken at any port or place in a foreign country or dominion (ports and places in foreign territory contiguous to the United States excepted) to bring such vessel and passengers to any port or place in the United States unless the compartments, spaces, and accommodations hereinafter mentioned have been provided, allotted, maintained, and used for and by such passengers during the entire voyage; that is to say, in a steamship, the compartments or spaces, unobstructed by cargo, stores, or goods, shall be of sufficient dimensions to allow for each and every passenger carried or brought therein eighteen clear superficial feet of deck allotted to his or her use, if the compartment or space is located on the main deck or on the first deck next below the main deck of the vessel, and twenty clear superficial feet of deck allotted to his or her use for each passenger carried or brought therein if the compartment or space is located on the second deck below the main deck of the vessel: *Provided*, That if the height between the lower passenger deck and the deck immediately above it is less than seven feet, or if the apertures (exclusive of the side scuttles) through which light and air are admitted together to the lower passenger deck are less in size than in the proportion of three square feet to every one hundred superficial feet of that deck, the ship shall not carry a greater number of passengers on that deck than in the proportion of one passenger to every thirty clear superficial feet thereof. It shall not be lawful to carry or bring passengers on any deck other than the decks above mentioned. And in sailing vessels such passengers shall be carried or brought only on the deck (not being an orlop deck) that is next below the main deck of the vessel, or in a poop or deck house constructed on the main deck; and the compartment or space, unobstructed by cargo, stores, or goods, shall be of sufficient dimensions to allow one hundred and ten cubic feet for each and every passenger brought therein. And such passengers shall not be carried or brought in

any between decks, nor in any compartment, space, poop, or deck house, the height of which from deck to deck is less than six feet. In computing the number of such passengers carried or brought in any vessel, children under one year of age shall not be included, and two children between one and eight years of age shall be counted as one passenger; and any person brought in any such vessel who shall have been, during the voyage, taken from any other vessel wrecked or in distress on the high seas, or have been picked up at sea from any boat, raft, or otherwise, shall not be included in such computation. The master of a vessel coming to a port or place in the United States in violation of either of the provisions of this section shall be deemed guilty of a misdemeanor; and if the number of passengers other than cabin passengers carried or brought in the vessel, or in any compartment, space, poop, or deck house thereof, is greater than the number allowed to be carried or brought therein, respectively, as hereinbefore prescribed, the said master shall be fined fifty dollars for each and every passenger in excess of the proper number, and may also be imprisoned not exceeding six months.

This section shall take effect on January first, nineteen hundred and nine.

Sec. 43. That the Act of March third, nineteen hundred and three, being an Act to regulate the immigration of aliens into the United States, except section thirty-four thereof, and the Act of March twenty-second, nineteen hundred and four, being an Act to extend the exemption from head tax to citizens of Newfoundland entering the United States, and all Acts and parts of Acts inconsistent with this Act are hereby repealed: *Provided*, That this Act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section six, chapter four hundred and fifty-three, third session Fifty-eighth Congress, approved February sixth, nineteen hundred and five, or, prior to January first, nineteen hundred and nine, section one of the Act approved August second, eighteen hundred and eighty-two, entitled „An Act to regulate the carriage of passengers by sea."

Sec. 44. That this Act shall take effect and be enforced from and after July first, nineteen hundred and seven: *Provided, however,* That section thirty-nine of this Act and the last proviso of section one shall take effect upon the passage of this Act and section forty-two on January first, nineteen hundred and nine.

Approved, February 20, 1907.

142.

ETATS-UNIS D'AMÉRIQUE.

Loi concernant la perte de la nationalité et la protection des citoyens des Etats-Unis à l'étranger; du 2 mars 1907.

Statutes at Large XXXIV, 1. p. 1228.

[Public—No. 193.]

An Act In reference to the expatriation of citizens and their protection abroad.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State shall be authorized, in his discretion, to issue passports to persons not citizens of the United States as follows: Where any person has made a declaration of intention to become such a citizen as provided by law and has resided in the United States for three years a passport may be issued to him entitling him to the protection of the Government in any foreign country: *Provided*, That such passport shall not be valid for more than six months and shall not be renewed, and that such passport shall not entitle the holder to the protection of this Government in the country of which he was a citizen prior to making such declaration of intention.

Sec. 2. That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state.

When any naturalized citizen shall have resided for two years in the foreign state from which he came, or for five years in any other foreign state it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: *Provided, however*, That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe: *And provided also,* That no American citizen shall be allowed to expatriate himself when this country is at war.

Sec. 3. That any American woman who marries a foreigner shall take the nationality of her husband. At the termination of the marital relation she may resume her American citizenship, if abroad, by registering as an American citizen within one year with a consul of the United States, or by returning to reside in the United States, or, if residing in the United States at the termination of the marital relation, by continuing to reside therein.

Sec. 4. That any foreign woman who acquires American citizenship by marriage to an American shall be assumed to retain the same after the termination of the marital relation if she continues to reside in the United States, unless she makes formal renunciation thereof before a court having jurisdiction to naturalize aliens, or if she resides abroad she may retain her citizenship by registering as such before a United States consul within one year after the termination of such marital relation.

Sec. 5. That a child born without the United States of alien parents shall be deemed a citizen of the United States by virtue of the naturalization of or resumption of American citizenship by the parent: *Provided,* That such naturalization or resumption takes place during the minority of such child: *And provided further,* That the citizenship of such minor child shall begin at the time such minor child begins to reside permanently in the United States.

Sec. 6. That all children born outside the limits of the United States who are citizens thereof in accordance with the provisions of section nineteen hundred and ninety-three of the Revised Statutes of the United States and who continue to reside outside the United States shall, in order to receive the protection of this Government, be required upon reaching the age of eighteen years to record at an American consulate their intention to become residents and remain citizens of the United States and shall be further required to take the oath of allegiance to the United States upon attaining their majority.

Sec. 7. That duplicates of any evidence, registration, or other acts required by this Act shall be filed with the Department of State for record.

Approved, March 2, 1907.

143.

ETATS-UNIS D'AMÉRIQUE.

Loi modifiant la loi sur l'immigration du 20 février 1907;*) du 26 mars 1910.

Publication officielle.

[Public—No. 107.]

[H. R. 15816.]

An Act To amend an Act entitled „An Act to regulate the immigration of aliens into the United States", approved February twentieth, nineteen hundred and seven.

*) V. ci-dessus No. 141.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section two of the Act entitled „An Act to regulate the immigration of aliens into the United States", approved February twentieth, nineteen hundred and seven, is hereby amended so as to read as follows:

„Sec. 2. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or of all forms of law, or the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons hereinafter called contract laborers who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written or printed, expressed or implied, to perform labor in this country of any kind, skilled or unskilled; those who have been, within one year from the date of application for admission to the United States, deported as having been induced or solicited to migrate as above described; any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign government, either directly or indirectly; all children under sixteen years of age unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe: *Provided*, That nothing in this Act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this section relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply

to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *And provided further*, That skilled labor may be imported if labor of like kind unemployed can not be found in this country: *And provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants."

Sec. 2. That section three of an Act entitled „An Act to regulate the immigration of aliens into the United States", approved February twentieth, nineteen hundred and seven, is hereby amended so as to read as follows:

„Sec. 3. That the importation into the United States of any alien for the purpose of prostitution or for any other immoral purpose is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States, any alien for the purpose of prostitution or for any other immoral purpose, or whoever shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or whoever shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, in pursuance of such illegal importation, any alien, shall, in every such case be deemed guilty of a felony, and on conviction thereof be imprisoned not more than ten years and pay a fine of not more than five thousand dollars. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. Any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; or who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute, shall be deemed to be unlawfully within the United States and shall be deported in the manner provided by sections twenty and twenty-one of this Act. That any alien who shall, after he has been debarred or deported in pursuance of the provisions of this section, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and shall be imprisoned for not more than two years. Any alien who shall be convicted under any of the provisions of this section shall, at the expiration of his sentence, be taken into custody and returned to the country whence he came, or of which he is a subject or a citizen in the manner provided in sections

twenty and twenty-one of this Act. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband."

Approved, March 26, 1910.

144.

ETATS-UNIS D'AMÉRIQUE, JAPON.

Traité de commerce et de navigation; signé à Washington, le 21 février 1911, suivi d'une Déclaration et d'un Protocole.*)

Treaty Series No. 558.

The President of the United States of America and His Majesty the Emperor of Japan, being desirous to strengthen the relations of amity and good understanding which happily exist between the two nations, and believing that the fixation in a manner clear and positive of the rules which are hereafter to govern the commercial intercourse between their respective countries will contribute to the realization of this most desirable result, have resolved to conclude a Treaty of Cammerce and Navigation for that purpose, and to that end have named their Plenipotentiaries, that is to say:

The President of the United States of America, Philander C. Knox, Secretary of State of the United States; and

His Majesty the Emperor of Japan, Baron Yasuya Uchida, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

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*) Les ratifications ont été échangées à Tokio, le 4 avril 1911. — Comp. la Proclamation du Président des Etats-Unis: „And Whereas, the advice and consent of the Senate of the United States to the ratification of the said Treaty was given with the understanding „that the treaty shall not be deemed to repeal or affect any of the provisions of the Act of Congress entitled ‚An Act to Regulate the Immigration of Aliens into the United States', approved February 20th 1907";

And Whereas, the said understanding has been accepted by the Government of Japan;

And Whereas, the said Treaty, as amended by the Senate of the United States, has been duly ratified on both parts ...." — V. ci-dessus, No. 141.

Article I.

The citizens or subjects of each of the High Contracting Parties shall have liberty to enter, travel and reside in the territories of the other to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses and shops, to employ agents of their choice, to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native citizens or subjects, submitting themselves to the laws and regulations there established.

They shall not be compelled, under any pretext whatever, to pay any charges or taxes other or higher than those that are or may be paid by native citizens or subjects.

The citizens or subjects of each of the High Contracting Parties shall receive, in the territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or may be granted to native citizens or subjects, on their submitting themselves to the conditions imposed upon the native citizens or subjects.

They shall, however, be exempt in the territories of the other from compulsory military service either on land or sea, in the regular forces, or in the national guard, or in the militia; from all contributions imposed in lieu of personal service, and from all forced loans or military exactions or contributions.

Article II.

The dwellings, warehouses, manufactories and shops of the citizens or subjects of each of the High Contracting Parties in the territories of the other, and all premises appertaining thereto used for purposes of residence or commerce, shall be respected. It shall not be allowable to proceed to make a domiciliary visit to, or a search of, any such buildings and premises, or to examine or inspect books, papers or accounts, except under the conditions and with the forms prescribed by the laws, ordinances and regulations for nationals.

Article III.

Each of the High Contracting Parties may appoint Consuls General, Consuls, Vice Consuls, Deputy Consuls and Consular Agents in all ports, cities and places of the other, except in those where it may not be convenient to recognize such officers. This exception, however, shall not be made in regard to one of the Contracting Parties without being made likewise in regard to all other Powers.

Such Consuls General, Consuls, Vice Consuls, Deputy Consuls and Consular Agents, having received exequaturs or other sufficient authorizations from the Government of the country to which they are appointed, shall, on condition of reciprocity, have the right to exercise the functions and to enjoy the exemptions and immunities which are or may hereafter

be granted to the consular officers of the same rank of the most favored nation. The Government issuing exequaturs or other authorizations may in its discretion cancel the same on communicating the reasons for which it thought proper to do so.

Article IV.

There shall be between the territories of the two High Contracting Parties reciprocal freedom of commerce and navigation. The citizens or subjects of each of the Contracting Parties, equally with the citizens or subjects of the most favored nation, shall have liberty freely to come with their ships and cargoes to all places, ports and rivers in the territories of the other which are or may be opened to foreign commerce, subject always to the laws of the country to which they thus come.

Article V.

The import duties on articles, the produce or manufacture of the territories of one of the High Contracting Parties, upon importation into the territories of the other, shall henceforth be regulated either by treaty between the two countries or by the internal legislation of each.

Neither Contracting Party shall impose any other or higher duties or charges on the exportation of any article to the territories of the other than are or may be payable on the exportation of the like article to any other foreign country.

Nor shall any prohibition be imposed by either country on the importation or exportation of any article from or to the territories of the other which shall not equally extend to the like article imported from or exported to any other country. The last provision is not, however, applicable to prohibitions or restrictions maintained or imposed as sanitary measures or for purposes of protecting animals and useful plants.

Article VI.

The citizens or subjects of each of the High Contracting Parties shall enjoy in the territories of the other exemption from all transit duties and a perfect equality of treatment with native citizens or subjects in all that relates to warehousing, bounties, facilities and drawbacks.

Article VII.

Limited-liability and other companies and associations, commercial, industrial, and financial, already or hereafter to be organized in accordance with the laws of either High Contracting Party and domiciled in the territories of such Party, are authorized, in the territories of the other, to exercise their rights and appear in the courts either as plaintiffs or defendants, subject to the laws of such other Party.

The foregoing stipulation has no bearing upon the question whether a company or association organized in one of the two countries will or will not be permitted to transact its business or industry in the other, this permission remaining always subject to the laws and regulations enacted or established in the respective countries or in any part thereof.

Article VIII.

All articles which are or may be legally imported into the ports of either High Contracting Party from foreign countries in national vessels may likewise be imported into those ports in vessels of the other Contracting Party, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in national vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other foreign place.

In the same manner, there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the territories of each of the Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in vessels of the United States or in Japanese vessels, and whatever may be the place of destination, whether a port of the other Party or of any third Power.

Article IX.

In all that regards the stationing, loading and unloading of vessels in the ports of the territories of the High Contracting Parties, no privileges shall be granted by either Party to national vessels which are not equally, in like cases, granted to the vessels of the other country; the intention of the Contracting Parties being that in these respects the respective vessels shall be treated on the footing of perfect equality.

Article X.

Merchant vessels navigating under the flag of the United States or that of Japan and carrying the papers required by their national laws to prove their nationality shall in Japan and in the United States be deemed to be vessels of the United States or of Japan, respectively.

Article XI.

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels in general, or on vessels of the most favored nation. Such equality of treatment shall apply reciprocally to the respective vessels from whatever place they may arrive and whatever may be their place of destination.

Article XII.

Vessels charged with performance of regular scheduled postal service of one of the High Contracting Parties, whether belonging to the State

or subsidized by it for the purpose, shall enjoy, in the ports of the territories of the other, the same facilities, privileges and immunities as are granted to like vessels of the most favored nation.

Article XIII.

The coasting trade of the High Contracting Parties is excepted from the provisions of the present Treaty and shall be regulated according to the laws of the United States and Japan, respectively. It is, however, understood that the citizens or subjects of either Contracting Party shall enjoy in this respect most-favored-nation treatment in the territories of the other.

A vessel of one of the Contracting Parties, laden in a foreign country with cargo destined for two or more ports of entry in the territories of the other, may discharge a portion of her cargo at one of the said ports, and, continuing her voyage to the other port or ports of destination, there discharge the remainder of her cargo, subject always to the laws, tariffs and customs regulations of the country of destination; and, in like manner and under the same reservation, the vessels of one of the Contracting Parties shall be permitted to load at several ports of the other for the same outward voyages.

Article XIV.

Except as otherwise expressly provided in this Treaty, the High Contracting Parties agree that, in all that concerns commerce and navigation, any privilege, favor or immunity which either Contracting Party has actually granted, or may hereafter grant, to the citizens or subjects of any other State shall be extended to the citizens or subjects of the other Contracting Party gratuitously, if the concession in favor of that other State shall have been gratuitous, and on the same or equivalent conditions, if the concession shall have been conditional.

Article XV.

The citizens or subjects of each of the High Contracting Parties shall enjoy in the territories of the other the same protection as native citizens or subjects in regard to patents, trade-marks and designs, upon fulfillment of the formalities prescribed by law.

Article XVI.

The present Treaty shall, from the date on which it enters into operation, supersede the Treaty of Commerce and Navigation dated the 22nd day of November, 1894;*) and from the same date the last-named Treaty shall cease to be binding.

Article XVII.

The present Treaty shall enter into operation on the 17th of July, 1911, and shall remain in force twelve years or until the expiration of

*) V. N. R. G. 2. s. XXXIV, p. 450.

six months from the date on which either of the Contracting Parties shall have given notice to the other of its intention to terminate the Treaty.

In case neither of the Contracting Parties shall have given notice to the other six months before the expiration of the said period of twelve years of its intention to terminate the Treaty, it shall continue operative until the expiration of six months from the date on which either Party shall have given such notice.

Article XVIII.

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Tokyo as soon as possible and not later than three months from the present date.

In witness whereof, the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 21st day of February, in the nineteen hundred and eleventh year of the Christian era, corresponding to the 21st day of the 2nd month of the 44th year of Meiji.

Philander C. Knox (seal)
Y. Uchida (seal)

Declaration.

In proceeding this day to the signature of the Treaty of Commerce and Navigation between Japan and the United States the undersigned, Japanese Ambassador in Washington, duly authorized by his Government has the honor to declare that the Imperial Japanese Government are fully prepared to maintain with equal effectiveness the limitation and control which they have for the past three years exercised in regulation of the emigration of laborers to the United States.

Y. Uchida.

February 21, 1911.

Protocol.

The Government of the United States of America and the Government of Japan have, through their respective Plenipotentiaries, agreed upon the following stipulation in regard to Article V of the Treaty of Commerce and Navigation between the United States and Japan signed this day to replace on the 17th of July, 1911, the Treaty of the 22nd of November, 1894:

Pending the conclusion of a treaty relating to tariff, the provisions relating to tariff in the Treaty of the 22nd of November, 1894, shall be maintained.

In witness whereof, the respective Plenipotentiaries have signed this Protocol in duplicate and have hereunto affixed their seals.

Done at Washington the 21st day of February, in the nineteen hundred and eleventh year of the Christian era, corresponding to the 21st day of the 2nd month of the 44th year of Meiji.

(seal) *Philander C Knox.*
(seal) *Y. Uchida.*

145.

BRÉSIL.

Décret concernant l'expulsion des étrangers; du 7 janvier 1907.*)

Diario official du 9 janvier 1907.

Decreto N. 1.641—De 7 de janeiro de 1907.

Providencia sobre a expulsão de estrangeiros do territorio nacional.

O Presidente da Republica dos Estados Unidos do Brazil:

Faço saber que o Congresso Nacional decretou e eu sancciono a seguinte resolução:

Art. 1.º O estrangeiro que, por qualquer motivo, comprometter a segurança nacional ou a tranquillidade publica, póde ser expulso de parte ou de todo o territorio nacional.

Art. 2.º São tambem causas bastantes para a expulsão:

1ª, a condemnação ou processo pelos tribunaes estrangeiros por crimes ou delictos de natureza commum;

2ª, duas condemnações, pelo menos, pelos tribunaes brazileiros por crimes ou delictos de natureza commum;

3ª, a vagabundagem, a mendicidade e o lenocinio competentemente verificados.

Art. 3.º Não póde ser expulso o estrangeiro que residir no territorio da Republica por dous annos continuos, ou por menos tempo, quando:

a) casado com brazileira;

b) viuvo com filho brazileiro.

Art. 4.º O Poder Executivo póde impedir a entrada no territorio da Republica a todo estrangeiro cujos antecedentes autorizem incluil-os entre aquelles a que se referem os arts. 1º e 2º.

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*) V. la traduction allemande du Décret, Zeitschrift für Völkerrecht und Bundesstaatsrecht IV, p. 63.

Paragrapho unico. A entrada não póde ser vedada ao estrangeiro nas condições do art. 3^{0}, si tiver se retirado da Republica temporariamente.

Art. 5.^{0} A expulsão será individual e em fórma de acto, que será expedido pelo Ministro da Justiça e Negocios Interiores.

Art. 6.^{0} O Poder Executivo dará annualmente conta ao Congresso da execução da presente lei, remettendo-lhe os nomes de cada um dos expulsos, com a indicação de sua nacionalidade, e relatando igualmente os casos em que deixou de attender á requisição das autoridades estaduaes e os motivos da recusa.

Art. 7.^{0} O Poder Executivo fará notificar em nota official ao estrangeira que resolver expulsar, os motivos da deliberação, concedendo-lhe o prazo de tres a trinta dias para se retirar, e podendo, como medida de segurança publica, ordenar a sua detenção até o momento da partida.

Art. 8.^{0} Dentro do prazo que for concedido, póde o estrangeiro recorrer para o proprio poder que ordenou a expulsão, si ella se fundou na disposição do art. 1^{0}, ou para o Poder Judiciario Federal, quando proceder do disposto no art. 2^{0}. Sómente neste ultimo caso o recurso terá effeito suspensivo.

Paragrapho unico. O recurso ao Poder Judiciario Federal consistirá na justificação da falsidade do motivo allegado, feita perante o juizo seccional com audiencia do ministerio publico.

Art. 9.^{0} O estrangeiro que regressar ao territorio de onde tiver sido expulso será punido com a pena de um a tres annos de prisão, em processo preparado e julgado pelo juiz seccional e, depois de cumprida a pena, novamente expulso.

Art. 10. O Poder Executivo póde revogar a expulsão, si cessarem as causas que a determinaram.

Art. 11. Revogam-se as disposições em contrario.

Rio de Janeiro, 7 de janeiro de 1907, 19^{0} da Republica.

Affonso Augusto Moreira Penna.

Augusto Tavares de Lyra.

146.

PORTUGAL, NORVÈGE.

Correspondance concernant la procédure à suivre lors de la collation des décorations; du 23 janvier au 21 février 1907.

Recueil des Traités de la Norvège (1907), p. 521.

Légation de Portugal.

Stockholm le 23 janvier 1907.

Monsieur le Ministre,

Le Gouvernement de Sa Majesté, dans l'intention d'éviter que les distinctions honorifiques ne soient accordées à des personnes non qualifiées pour les recevoir, attacherait du prix à se mettre d'accord avec le Gouvernement Norvégien pour régler à l'avenir l'octroi réciproque des décorations. Cependant, comme la concession de n'importe qu'elles distinctions honorifiques est, d'après la constitution du Royaume, une prérogative exclusive du Souverain, le Gouvernement de Sa Majesté n'a ni le droit ni le pouvoir de restreindre par un acte international le libre exercice de cette prérogative. Mais le Gouvernement de Sa Majesté, conformément à l'esprit du Décret Royal du 31 mars 1882 s'engagerait volontiers au moyen d'un échange de Notes, — si de son côté le Gouvernement Norvégien voudrait bien se compromettre à observer les mêmes formalités à l'égard des sujets portugais, — à ce que des distinctions honorifiques ne fussent accordées à des sujets norvégiens sans d'abord s'enquérir auprès du Ministère des Affaires Etrangères à Christiania, s'ils se trouvent dans les conditions d'être décorés, et si le grade proposé est en rapport avec leur situation officielle ou leur position sociale.

Il est entendu que de cet engagement seraient formellement exceptées les décorations accordées à l'occasion de visites ou voyages des Souverains et des Membres de leurs Maisons, de manœuvres militaires ou de la signature de traités et conventions, ainsi que les décorations conférées aux membres du Corps Diplomatique accrédités dans les deux cours ou à ceux de missions extraordinaires, envoyées à l'un ou l'autre des deux pays. Dans ces conditions, cette ouverture, que par ordre de mon gouvernement j'ai l'honneur de faire à Votre Excellence, serait considérée comme un engagement formel, si le Gouvernement Norvégien consentirait à en assurer l'exécution réciproque.

Veuillez agréer, etc.

A. de Castro Feijo.

A
Son Excellence Monsieur Løvland,
Ministre des Affaires Etrangères
etc. etc. etc.

Ministère des Affaires Etrangères.

Kristiania, le 16 février 1907.

Monsieur le Ministre,

En réponse à Votre note en date du 23 janvier dernier je suis autorisé à Vous faire savoir que le Gouvernement norvégien s'engage — sous réserve que le Gouvernement Portugais observe les mêmes formalités à l'égard des sujets norvégiens — à procéder de manière à ce que des distinctions honorifiques ne soient dorénavant accordées à des sujets portugais, sans d'abord s'enquérir auprès du Ministère des Affaires Etrangères à Lisbonne si les personnes en question se trouvent dans les conditions d'être décorées, et si le grade proposé est en rapport avec leur situation officielle ou leur position sociale.

Il est entendu que de cet engagement sont formellement exceptées les décorations accordées à l'occasion de visites ou voyages des Souverains et des Membres de Leurs Maisons, de manœuvres militaires ou de la signature de traités et conventions, ainsi que les décorations conférées aux membres du Corps Diplomatique accrédités auprès des deux cours ou à ceux de missions extraordinaires envoyées à l'un ou l'autre des deux pays.

A la suite de l'engagement pris ainsi par le gouvernement norvégien, j'estime qu'aux termes de l'ouverture que par ordre de Votre gouvernement Vous avez bien voulu faire dans Votre note précitée, la réciprocité est établie entre les gouvernements norvégien et portugais pour ce qui est des règles à observer lors de l'octroi de décorations norvégiennes à des sujets portugais et de décorations portugaises à des sujets norvégiens.

Veuillez agréer, etc. *J. Løvland.*

Monsieur de Castro Feijo,
Envoyé Extraordinaire et Ministre Plénipotentiaire
de Sa Majesté le Roi de Portugal etc. etc. etc.
Stockholm.

Légation de Portugal.

Stockholm, le 21 Février 1907.

Monsieur le Ministre,

J'ai l'honneur d'accuser réception de la Note que Votre Excellence a bien voulu m'adresser pour me faire savoir que le Gouvernement Norvégien, en réponse à ma note du 23 janvier concernant l'octroi des décorations, acceptait la proposition de mon Gouvernement. La réciprocité demeurant de cette manière établie, il ne me reste qu'à en informer mon Gouvernement, ce que je fais en cette date.

Veuillez agréer, etc. *A. de Castro Feijo.*

Son Excellence
Monsieur Løvland
Ministre des Affaires Etrangères.

147.

CANADA.

Loi sur l'extradition des criminels; du 30 janvier 1907.*)

British and Foreign State Papers C (1911), p. 36.

Act of the Government of Canada respecting the Extradition of Fugitive Criminals.

[Chapter 155.] *Short Title.* [R.S., 1906.]

1. This Act may be cited as the Extradition Act (R.S., c. 142, s. 1.)

Interpretation.

2. In this Act, unless the context otherwise requires,

(*a*) „extradition arrangement,“ or „arrangement,“ means a treaty, convention, or arrangement made by His Majesty with a foreign state for the surrender of fugitive criminals and which extends to Canada;

(*b*) „extradition crime“ may mean any crime which, if committed in Canada, or within in Canadian jurisdiction, would be one of the crimes described in the First Schedule to this Act; and, in the application of this Act to the case of any extradition arrangement, the said expression means any crime described in such arrangement, whether comprised in the said Schedule or not;

(*c*) „conviction“ or „convicted“ does not include the case of a condemnation under foreign law by reason of contumacy, but „accused person“ includes a person so condemned;

(*d*) „fugitive“ or „fugitive criminal“ means a person being, or suspected of being, in Canada who is accused or convicted of an extradition crime committed within the jurisdiction of any foreign state;

(*e*) „foreign state“ includes every colony, dependency, and constituent part of the foreign state; and every vessel of any such state shall be deemed to be within the jurisdiction of and to be part of the state;

(*f*) „warrant,“ in the case of a foreign state, includes any judicial document authorizing the arrest of a person accused or convicted of crime;

(*g*) „judge“ includes any person authorised to act judicially in extradition matters. (R.S., c. 142, s. 2.)

Part I. Extradition under Treaty.

Application of Part.

3. In the case of any foreign state with which there is an extradition arrangement, this Part shall apply during the continuance of such arrange-

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*) Revised Statutes 1906, introduits par une Loi du 30 janvier 1907.

ment; but no provision of this Part which is inconsistent with any of the terms of the arrangement shall have effect to contravene the arrangement; and this Part shall be so read and construed as to provide for the execution of the arrangement. (R.S., c. 142, s. 3.)

4. In the case of any foreign state with respect to which the application to the United Kingdom of the Act of the Parliament of the United Kingdom, passed in the year 1870, and intituled *An Act for amending the Law relating to the Extradition of Criminals*, and any Act or Acts amending the same, is made subject to any limitation, condition, qualification or exception, the Governor in Council shall make the application of this Part, subject to such limitation, condition, qualification or exception. (R.S., c. 142, s. 3.)

5. The Governor in Council may, at any time, revoke or alter, subject to the restrictions of this Part, any order made by him in council under this Part, and all the provisions of this Part with respect to the original order shall, so far as applicable, apply *mutatis mutandis* to the new order. (R.S., c. 142, s. 3.)

6. This Part, so far as its application in the case of any foreign state, depends on or is affected by any order in council, made under this Part or referred to therein, shall apply, or its application shall be affected from and after the time specified in the order, or, if no time is specified, after the date of the publication of the order in the *Canada Gazette*. (R.S., c. 142, s. 4.)

7. Any order of His Majesty in Council, referred to in this Part, and any order of the Governor in Council made under this Part, and any extradition arrangement shall be, as soon as possible, published in the *Canada Gazette* and laid before both Houses of Parliament. (R.S., c. 142, s. 4.)

8. The publication in the *Canada Gazette* of an extradition arrangement or an order in council shall be evidence of such arrangement or order, and of the terms thereof, and of the application of this Part, pursuant and subject thereto; and the Court or Judge shall take judicial notice, without proof, of such arrangement or order, and the validity of the order and the application of this Part, pursuant and subject thereto, shall not be questioned. (R.S., c. 142, s. 4.)

Judges and Commissioners.

9. (1) All Judges of the Superior Courts and of the County Courts of any province, and all Commissioners who are from time to time appointed for the purpose in any province by the Governor in Council, under the Great Seal of Canada, by virtue of this Part, are authorized to act judicially in extradition matters under this Part within the province; and every such person shall, for the purposes of this Part, have all the powers and jurisdiction of any Judge or Magistrate of the province.

(2) Nothing in this section shall be construed to confer on any Judge any jurisdiction in *habeas corpus* matters. (R.S., c. 142, s. 5.)

Extradition from Canada.

10. (1) Whenever this Part applies, a Judge may issue his warrant for the apprehension of a fugitive on a foreign warrant of arrest, or an information or complaint laid before him, and on such evidence or after such proceedings as in his opinion would, subject to the provisions of this Part, justify the issue of his warrant if the crime of which the fugitive is accused, or of which he is alleged to have been convicted, had been committed in Canada.

(2) The Judge shall forthwith send a report of the fact of the issue of the warrant, together with certified copies of the evidence and foreign warrant, information, or complaint, to the Minister of Justice. (R.S., c. 142, s. 6.)

11. A warrant issued under this Part may be executed in any part of Canada, in the same manner as if it had been originally issued, or subsequently endorsed, by a Justice of the Peace having jurisdiction in the place where it is executed. (R.S., c. 142, s. 7.)

12. Every fugitive criminal of a foreign state, to which this Part applies, shall be liable to be apprehended, committed and surrendered, in the manner provided in this Part, whether the crime or conviction, in respect of which the surrender is sought, was committed or took place before or after the date of the arrangement, or before or after the time when this Part is made to apply to such state, and whether there is or is not any criminal jurisdiction in any court of His Majesty's dominion over the fugitive in respect of the crime. (R.S., c. 142, s. 8.)

13. The fugitive shall be brought before a Judge, who shall, subject to the provisions of this Part, hear the case, in the same manner, as nearly as may be, as if the fugitive was brought before a Justice of the Peace charged with an indictable offence committed in Canada. (R.S., c. 142, s. 9.)

14. The judge shall receive upon oath, or affirmation, if affirmation is allowed by law, the evidence of any witness tendered to show the truth of the charge or the fact of the conviction. (R.S., c. 142, s. 9.)

15. The judge shall receive, in like manner, any evidence tendered to show that the crime of which the fugitive, is accused or alleged to have been convicted is an offence of a political character, or is, for any other reason, not an extradition crime; or that the proceedings are being taken with a view to prosecute or punish him for an offence of a political character. (R.S., c. 142, s. 9.)

16. Depositions or statements taken in a foreign state on oath, or on affirmation, where affirmation is allowed by the law of the state, and copies of such depositions or statements and foreign certificates of, or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Part. (R.S., c. 142, s. 10.)

17. Such papers shall be deemed duly authenticated if authenticated in manner provided, for the time being, by law, or if

(*a*) the warrant purports to be signed by, or the certificate purports to be certified by, or the depositions or statements, or the copies thereof, purport to be certified to be the originals or true copies, by a Judge, Magistrate, or Officer of the foreign state; and

(*b*) if the papers are authenticated by the oath or affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other minister of the foreign state, or of a colony, dependency, or constituent part of the foreign state; of which seal the Judge shall take judicial notice without proof. (R.S., c. 142, s. 10.)

18. (1) (*a*) In the case of the fugitive alleged to have been convicted of an extradition crime, if such evidence is produced as would, according to the law of Canada, subject to the provisions of this Part, prove that he was so convicted; and,

(*b*) in the case of a fugitive accused of an extradition crime, if such evidence is produced as would, according to the law of Canada, subject to the provisions of this Part, justify his committal for trial, if the crime had been committed in Canada; the Judge shall issue his warrant for the committal of the fugitive to the nearest convenient prison, there to remain until surrendered to the foreign state, or discharged according to law.

(2) If such evidence is not produced, the Judge shall order him to be discharged. (R.S., c. 142, s. 11.)

19. If the Judge commits a fugitive to prison, he shall on such committal

(*a*) inform him that be will not be surrendered until after the expiration of 15 days, and that he has a right to apply for a writ of *habeas corpus*; and

(*b*) transmit to the Minister of Justice a certificate of the committal, with a copy of all the evidence taken before him not already so transmitted, and such report upon the case as he thinks fit. (R.S., c. 142, s. 12.)

20. (1) A requisition for the surrender of a fugitive criminal of a foreign state who is, or is suspected to be, in Canada may be made to the Minister of Justice

(*a*) by any person recognized by him as a Consular officer of that state resident at Ottawa; or

(*b*) by any minister of that state communicating with the Minister of Justice through the diplomatic representative of His Majesty in that state.

(2) If neither of these modes is convenient, then the requisition shall be made in such other mode as is settled by arrangement. (R.S., c. 142, s. 13.)

21. No fugitive shall be liable to surrender under this Part if it appears

(*a*) that the offence in respect of which proceedings are taken under this Act is one of a political character; or

(*b*) that such proceedings are being taken with a view to prosecute or punish him for an offence of a political character. (R.S., c. 142, s. 14.)

22. If the Minister of Justice at any time determines

(*a*) that the offence in respect of which proceedings are being taken under this Part is one of a political character;

(*b*) that the proceedings are, in fact, being taken with a view to try or punish the fugitive for an offence of a political character; or

(*c*) that the foreign state does not intend to make a requisition for surrender; he may refuse to make an order for surrender, and may, by order under his hand and seal, cancel any order made by him, or any warrant issued by a Judge under this Part, and order the fugitive to be discharged out of custody on any committal made under this Part; and the fugitive shall be discharged accordingly. (R.S., c. 142, s. 15.)

23. A fugitive shall not be surrendered until after the expiration of fifteen days from the date of his committal for surrender; or, if a writ of *habeas corpus* is issued, until after the decision of the court remanding him. (R.S., c. 142, s. 16.)

24. A fugitive who has been accused of an offence within Canadian jurisdiction, not being the offence for which his surrender is asked, or who is undergoing sentence under a conviction in Canada, shall not be surrendered until after he has been discharged, whether by acquittal or by expiration of his sentence, or otherwise. (R.S., c. 142, s. 16.)

25. Subject to the provisions of this Part, the Minister of Justice, upon the requisition of the foreign state, may, under his hand and seal, order a fugitive who has been committed for surrender to be surrendered to the person or persons who are, in his opinion, duly authorized to receive him in the name and on behalf of the foreign state, and he shall be so surrendered accordingly. (R.S., c. 142, s. 17.)

26. Any person to whom such order of the Minister of Justice is directed may deliver, and the person thereto authorized by such order may receive, hold in custody, and convey the fugitive within the jurisdiction of the foreign state; and if he escapes out of any custody to which he is delivered, on or in pursuance of such order, he may be retaken in the same manner as any person accused or convicted of any crime against the laws of Canada may be retaken on an escape. (R.S., c. 142, s. 17.)

27. Everything found in the possession of the fugitive at the time of his arrest which may be material as evidence in making proof of the crime may be delivered up with the fugitive on his surrender, subject to all rights of third persons with regard thereto. (R.S., c. 142, s. 18.)

28. If a fugitive is not surrendered and conveyed out of Canada within two months after his committal for surrender, or if a writ of *habeas corpus* is issued within two months after the decision of the court

on such writ, over and above, in either case, the time required to convey him from the prison to which he has been committed by the readiest way out of Canada, any one or more of the Judges of the Superior Courts of the province in which such person is confined, having power to grant a writ of *habeas corpus*, may, upon application made to him or them by or on behalf of the fugitive, and on proof that reasonable notice of the intention to make such application has been given to the Minister of Justice, order the fugitive to be discharged out of custody, unless sufficient cause is shown against such discharge. (R.S., c. 142, s. 19.)

29. The form set forth in the Second Schedule to this Act, or forms as near thereto as circumstances admit of, may be used in the matters to which such forms refer, and, when used, shall be deemed valid. (R.S., c. 142, s. 20.)

Extradition from a Foreign State.

30. (1) A requisition for the surrender of a fugitive criminal from Canada, who is or is suspected to be in any foreign state with which there is an extradition arrangement, may be made by the Minister of Justice

(*a*) to a Consular officer of that state resident at Ottawa; or

(*b*) to the Minister of Justice or any other Minister of that state, through the diplomatic representative of His Majesty in that state.

(2) If neither of these modes is convenient, the requisition shall be made in such other mode as is settled by arrangement. (R.S., c. 142, s. 21.)

31. Any person accused or convicted of an extradition crime who is surrendered by a foreign state may, under the warrant for his surrender issued in such foreign state, be brought into Canada and delivered to the proper authorities, to be dealt with according to law. (R.S., c. 142, s. 22.)

32. Whenever any person accused or convicted of an extradition crime is surrendered by a foreign state, in pursuance of any extradition arrangement, such person shall not, until after he has been restored or has had an opportunity of returning to the foreign state within the meaning of the arrangement, be subject, in contravention of any of the terms of the arrangement, to any prosecution or punishment in Canada for any other offence committed prior to his surrender, for which he should not, under the arrangement, be prosecuted. (R.S., c. 142, s. 23.)

List of Crimes.

33. The list of crimes in the First Schedule to this Act shall be construed according to the law existing in Canada at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act, and as including only such crimes, of the descriptions comprised in the list, as are, under that law, indictable offences. (R.S., c. 142, s. 24.)

Part II. Extradition Irrespective of Treaty.

34. (1) The provisions of this Part shall not come into force, with respect to fugitive offenders from any foreign state, until this Part shall

have been declared by proclamation of the Governor-General to be in force and effect as regards such foreign state, from and after a day to be named in such proclamation.

(2) If by proclamation the Governor-General declares this Part to be no longer in operation as regards any foreign state, the provisions thereof shall cease to have any force or effect with respect to fugitive offenders from such state from and after a day to be named in such proclamation. (52 V., c. 36, s. 4.)

35. The provisions of this Part shall apply to any crime mentioned in the Third Schedule to this Act committed after the coming into force of this Part, as regards any foreign state to which this Part has been by proclamation declared to apply. (52 V., c. 36, s. 3.)

36. (1) In case no extradition arrangement exists between His Majesty and a foreign state, or in case such an extradition arrangement, extending to Canada, exists between His Majesty and a foreign state, but does not include the crimes mentioned in the Third Schedule to this Act, it shall, nevertheless, be lawful for the Minister of Justice to issue his warrant for the surrender to such foreign state of any fugitive offender from such foreign state charged with or convicted of any of the crimes mentioned in the said Schedule.

(2) The arrest, committal, detention, surrender and conveyance out of Canada of such fugitive offender shall be governed by the provisions of Part I. of this Act, and all the provisions of the said Part shall apply to all steps and proceedings in relation to such arrest, committal, detention, surrender and conveyance out of Canada in the same manner and to the same extent as they would apply if the said crimes were included and specified in an extradition arrangement between His Majesty and the foreign state extending to Canada. (52 V., c. 36, s. 1.)

37. All expenses connected with the arrest, committal, detention, surrender and conveyance out of Canada of any fugitive offender under this Part shall be borne by the foreign state applying for the surrender of such fugitive offender. (52 V., c. 36, s. 2.)

38. The list of crimes in the Third Schedule to this Act shall be construed according to the law existing in Canada at the date of the commission of the alleged crime, whether by common law or by statute, and as including only such crimes, of the description comprised in the list, as are, under that law, indictable offences. (52 V., c. 36, s. 3.)

39. No warrant shall issue under this Part for the extradition of any person to any state or country in which by the law in force in such state or country such person may be tried after such extradition for any other offence than that for which he has been extradited, unless an assurance shall first have been given by the executive authority of such state or country that the person whose extradition has been claimed will not be tried for any other offence than that on account of which such extradition has been claimed. (52 V., c. 36, s. 5.)

First Schedule.

List of Crimes.

1. Murder, or attempt or conspiracy to murder.

2. Manslaughter.

3. Counterfeiting or altering money, and uttering counterfeit or altered money.

4. Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered.

5. Larceny or theft.

6. Embezzlement.

7. Obtaining money or goods, or valuable securities, by false pretences.

8. Crimes against bankruptcy or insolvency law.

9. Fraud by a bailee, banker, agent, factor, trustee, or by a director or member or officer of any company, which fraud is made criminal by any Act for the time being in force.

10. Rape.

11. Abduction.

12. Child stealing.

13. Kidnapping.

14. False imprisonment.

15. Burglary, house-breaking or shop-breaking.

16. Arson.

17. Robbery.

18. Threats, by letter or otherwise, with intent to extort.

19. Perjury or subornation of perjury.

20. Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state.

21. Criminal scuttling or destroying such a vessel at sea, whether on the high seas or on the great lakes of North America, or attempting or conspiring to do so.

22. Assault on board such a vessel at sea, whether on the high seas or on the great lakes of North America, with intent to destroy life or to do grievous bodily harm.

23. Revolt, or conspiracy to revolt, by two or more persons on board such a vessel at sea, whether on the high seas or on the great lakes of North America, against the authority of the master.

24. Any offence under

(*a*) Part VI. of the Criminal Code, except sections 307 to 312 inclusive and sections 317 to 334 inclusive.

(*b*) Part VII. of the Criminal Code, except sections 408 and 409, 416 to 418 inclusive, 429 to 444 inclusive, and sections 486 to 508 inclusive.

(*c*) Part VIII. of the Criminal Code, except sections 516, 519, 524, 527, 529 and 538, and sections 542 to 545 inclusive; and

(*d*) Part IX. of the Criminal Code,
and which are not included in any foregoing portion of this Schedule.

25. Any offence which is, in the case of the principal offender, included in any foregoing portion of this Schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal. (R.S., c. 142, sch. 1.)

Second Schedule.

Form 1.

Form of Warrant of Apprehension.

. . . . . .;
To wit:

To all and each of the constables of .

Whereas it has been shown to the undersigned, a Judge under the Extradition Act, that late of is accused (*or* convicted) of the crime of within the jurisdiction of

This is therefore to command you, in His Majesty's name, forthwith to apprehend the said and to bring him before me, or some other Judge under the said Act, to be further dealt with according to law; for which this shall be your warrant.

Given under my hand and seal at this day of A.D.

Form 2.

Form of Warrant of Committal.

. . . . . .;
To wit:

To one of the constables of and to the keeper of the at

Be it remembered that on this day of in the year of at is brought before me a Judge under the Extradition Act, who has been apprehended under the said Act, to be dealt with according to law; and forasmuch as I have determined that he should be surrendered in pursuance of the said Act, on the ground of his being accused (*or* convicted) of the crime of within the jurisdiction of

This is therefore to command you, the said constable, in His Majesty's name, forthwith to convey and deliver the said into the custody of the keeper of the at and you, the said keeper, to receive the said into your

custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Act, for which this shall be your warrant.

Given under my hand and seal at this day of A.D.

Form 3.

Form of Order of Minister of Justice for Surrender.

To the keeper of the at and to

Whereas late of accused (*or* convicted) of the crime of within the jurisdiction of was delivered into the custody of you, the keeper of the at by warrant dated pursuant to the Extradition Act.

Now I do hereby, in pursuance of the said Act, order you, the said keeper, to deliver the said into the custody of the said ; and I command you, the said to receive the said into your custody, and to convey him within the jurisdiction of the said and there place him in the custody of any person or persons (*or* of) appointed by the said to receive him; for which this shall be your warrant.

Given under the hand and seal of the undersigned Minister of Justice of Canada, this day of A.D.

(R.S., c. 142, sch. 2.)

Third Schedule.

1. Murder, or attempt or conspiracy to murder.
2. Manslaughter.
3. Counterfeiting or altering money and uttering counterfeit or altered money.
4. Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered.
5. Larceny or theft.
6. Embezzlement.
7. Obtaining money or goods or valuable securities by false pretences.
8. Rape.
9. Abduction; indecent assault.
10. Child stealing.
11. Kidnapping.
12. Burglary, house-breaking or shop-breaking.
13. Arson.
14. Robbery.

15. Fraud committed by a bailee, banker, agent, factor, trustee or member or public officer of any company or municipal corporation, made criminal by any law for the time being in force.

16. Any malicious act done with intent to endanger persons in a railway train.

17. Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state.

18. Criminal scuttling or destroying such a vessel at sea, whether on the high seas or on the great lakes of North America, or attempting or conspiring to do so.

19. Assault on board such a vessel at sea, whether on the high seas or on the great lakes of North America, with intent to destroy life or to do grievous bodily harm.

20. Revolt, or conspiracy to revolt, by two or more persons, on board such a vessel at sea, whether on the high seas or on the great lakes of North America, against the authority of the master.

21. Administering drugs or using instruments with intent to procure the miscarriage of a woman.

22. Any offence which is, in the case of the principal offender, included in any foregoing portion of this Schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal. (52 V., c, 36, sch.)

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CANADA.

Lois sur la naturalisation; du 30 janvier 1907.

British and Foreign State Papers C (1911), p. 633, 654.

Act of the Government of Canada respecting Naturalization and Aliens.*)

[Chapter 77.] [R. S., 1906.]

Short Title.

1. This Act may be cited as the Naturalization Act. (R.S., c. 113, s. 1.)

Interpretation.

2. In this Act, unless the context otherwise requires,

(*a*) „Disability" means the disability of being an infant, lunatic, idiot, or married woman;

*) Revised Statutes 1906, introduits par nne Loi du 30 janvier 1907.

(*b*) „Officer in the diplomatic service of His Majesty" means an ambassador, minister, chargé d'affaires, secretary of legation, or any person appointed by such ambassador, minister, chargé d'affaires, or secretary of legation, to execute any duty imposed upon an officer in the diplomatic service of His Majesty by the *Naturalization Act*, 1870, passed by the Parliament of the United Kingdom;

(*c*) „Officer in the consular service of His Majesty" means and includes consul-general, consul, vice-consul or consular agent, and any person for the time being discharging the duties of consul-general, consul, vice-consul or consular agent;

(*d*) „County" includes a union of counties and a judicial district or other judicial division;

(*e*) „Alien" includes a statutory alien;

(*f*) „Statutory alien" means a natural born British subject who has become an alien under this Act or any Act in that behalf;

(*g*) „Subject" includes a citizen, when the foreign country referred to is a republic;

(*h*) „Form" means a form in the Schedule to this Act. (R.S., c. 113, s. 2.)

3. For the purposes of this Act the Clerk of the Peace of any county in Ontario shall be deemed to be the „clerk" of the General Sessions of the Peace of that County, and the prothonotary of the Supreme Court of Nova Scotia for any county shall be deemed to be the „clerk" of that court in relation to matters arising in or dealt with in respect to such county. (2 E. VII., c. 23, s. 1; 3 E. VII., c. 38, s. 2.)

Rights of Property of Aliens.

4. Real and personal property of any description may be taken, acquired, held and disposed of by an alien in the same manner, in all respects, as by a natural-born British subject. (R.S., c. 113, s. 3.)

5. A title to real and personal property of any description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject. (R.S., c. 113, s. 3.)

6. Nothing in the two last preceding sections shall qualify an alien for any office, or for any municipal, parliamentary, or other franchise, or to be the owner of a British ship; nor shall anything therein entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly conferred upon him. (R.S., c. 113, s. 3.)

7. The provisions of the three last preceding sections shall not affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before July 4, 1883, or in pursuance of any devolution by law on the death of any person dying before the said date. (R.S., c. 113, s. 3.)

Expatriation.

8. Whenever His Majesty has entered into a convention with any foreign State to the effect that the subjects of that State who are naturalized as British subjects may divest themselves of their status as British subjects, and whenever His Majesty, by Order in Council, passed under Section 3 of *The Naturalization Act*, 1870, enacted by the Parliament of the United Kingdom, has declared that such Convention has been entered into by His Majesty, from and after the date of such Order in Council, any person originally a subject of the State referred to in such Order, who has been naturalized as a British subject within Canada, may, within such limit of time as is prescribed in the Convention, make a declaration of alienage, and from and after the date of his so making such declaration, such person shall, within Canada, be regarded as an alien, and as a subject of the State to which he originally belonged, as aforesaid. (R.S., c. 113, s. 4.)

9. Any such declaration of alienage may be made,

(*a*) In the United Kingdom, before any Justice of the Peace;

(*b*) Elsewhere, in His Majesty's dominions, before any Judge of any court of civil or criminal jurisdiction, or of any Justice of the Peace, or of any other officer for the time being authorized by law in such place to administer an oath for any judicial or other legal purpose; and,

(*c*) Out of His Majesty's dominions, before any officer in the diplomatic or consular service of His Majesty. (R.S., c. 113, s. 5.)

10. Any person who, by reason of his having been born within British dominions, is a natural-born subject of His Majesty, but who, at the time of his birth, under the law of any foreign State, was and still is a subject of such State, may, if of full age, and not under any disability, make a declaration of alienage in manner aforesaid, and, from and after the making of such declaration of alienage, such person shall, within Canada, cease to be a British subject. (R.S., c. 113, s. 6.)

11. Any person who is born out of British dominions of a father being a British subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall, within Canada, cease to be a British subject. (R.S., c. 113, s. 6.)

Effect of Naturalization Abroad.

12. Any British subject who has, at any time before or at any time after July 4, 1883, when in a foreign State and not under any disability, voluntarily become naturalized in such State, shall, from and after the time of his so having become naturalized in such foreign State, be deemed, within Canada, to have ceased to be a British subject, and shall be regarded as an alien. (R.S., c. 113, s. 7.)

Taking Oath.

13. Any alien who, within such limited time before taking the oaths or affirmations of residence and allegiance and procuring the same to be

filed of record as hereinafter prescribed, as may be allowed by Order or regulation of the Governor-in-Council, has resided in Canada for a term of not less than three years, or has been in the service of the Government of Canada or of any of the provinces of Canada, or of two or more of such governments, for a term of not less than three years, and intends, when naturalized, either to reside in Canada or to serve under the Government of Canada or the Government of one of the provinces of Canada, or two or more of such governments, may take and subscribe the oaths of residence and allegiance or of service and allegiance in Form A and apply for a certificate in Form B. (R.S., c. 113, s. 8.)

14. The following persons shall be competent to administer such oath, namely:

(*a*) A Judge of a Court of Record in Canada;

(*b*) A Commissioner authorized to administer oaths in any Court of Record in Canada.

(*c*) A Commissioner authorized by the Governor-General to take oaths under this Act;

(*d*) A Justice of the Peace of the county or district where the alien resides;

(*e*) A Notary Public;

(*f*) A Stipendiary Magistrate or a Police Magistrate. (R.S., c. 113, s. 9.)

Evidence of Residence or Service.

15. The alien shall adduce, in support of such application, such evidence of his residence or service, and intention to reside or serve, as the person before whom he takes the oaths aforesaid requires; and such person, on being satisfied with such evidence, and that the alien is of good character, shall grant to such alien a certificate in Form B. (R.S., c. 113, s. 10.)

Presentation of Certificate and Notice.

16. Such certificate shall be presented,

(*a*) In Ontario, to the Court and General Sessions of the Peace of the county in which the alien resides, or to the Court of Assize and *nisi prius* during its sittings in such county;

(*b*) In Quebec, to any Circuit Court within the territorial limits of the jurisdiction of which the alien resides;

(*c*) In Nova Scotia, to the Supreme Court, during its sittings in the country in which the alien resides, or to the County Court having jurisdiction in such county;

(*d*) In New Brunswick, to the Supreme Court, during its sittings in the county in which the alien resides, or to the Circuit Court, as the case may be, in such county, or to the County Court having jurisdiction in such county;

(*e*) In British Columbia, to the Supreme Court of British Columbia, during its sittings in the electoral district in which the alien resides, or to the Court of Assize and *nisi prius* during its sittings in such electoral district, or to the County Court of such electoral district;

(*f*) In Manitoba, to the County Court having jurisdiction where the alien resides, or, if there is no County Court having jurisdiction there, then to the County Court of the county nearest to his residence or the County Court the place of holding which is nearest to his residence;

(*g*) In Prince Edward Island, to the Supreme Court of Judicature, during its sittings in the county within which the alien resides, or to the Court of Assize and *nisi prius* during its sittings in such county, or to the County Court of such county;

(*h*) In the province of Saskatchewan or Alberta, to a Judge of the Supreme Court of the Northwest Territories sitting in chambers in the judicial district in which the alien resides, pending the abolition of that Court by the legislature of the province, and thereafter to a Judge of such superior Court as, in respect of the civil jurisdiction of the said Court, is established for the province in lieu thereof;

(*i*) In the Yukon Territory, to the Territorial Court, during its sittings in the circuit within which the alien resides. (3 E. VII., c. 38, s. 1; 4 E. VII., c. 25, s. 1; 4-5 E. VII., c. 3, s. 16; c. 42, s. 16.)

17. Except in the provinces of Saskatchewan and Alberta, when it is intended to present a certificate under the last preceding section, on behalf of any alien, notice in writing of such intention stating the name, residence and occupation or addition of such alien shall be given to the Clerk of the Court at least three weeks before the sitttings thereof.

(2) The Clerk shall post up in a conspicuous place in his office three weeks before such sittings, and keep posted there until such sittings are ended, a list showing the names, residences, and occupations or additions of all aliens as to whom due notice has been received by him of such intention. (3 E. VII., c. 38, s. 2.)

18. Except in the provinces of Saskatchewan and Alberta, at any time after the filing of any such notice and previous to the sittings of the Court any person objecting to the naturalization of the alien may file in the office of the Clerk an opposition in which shall be stated the grounds of his objections. (3 E. VII., c. 38, s. 2.)

19. Except in the provinces of Saskatchewan and Alberta, presentation of such certificates shall be made in open Court and on the first day of some general sittings of the Court, and thereupon the Judge shall cause the particulars of all such certificates to be openly announced in Court, the name, residence, and occupation or addition of each applicant for naturalization being stated.

(2) Where no opposition has been filed to the naturalization of an applicant, and no objection thereto is offered during the sittings, the Court on the last day of the sittings shall direct that the certificate of the applicant be filed of record in the Court.

(3) If such opposition has been filed or objection offered the Court shall hear and determine the same in a summary way, and shall make such direction or order in the premises as the justice of the case requires. (3 E. VII, c. 38, s. 2.)

20. In the province of Saskatchewan or Alberta, the procedure with regard to such certificate shall be as follows:

(*a*) Before its presentation to the Judge, such certificate shall, pending the abolition of the Supreme Court of the Northwest Territories by the legislature of the province, be filed in the office of the Clerk of that Court for the judicial district in which the alien resides, unless he resides in a portion of district assigned to a Deputy Clerk, in which case it shall be filed in the office of such Deputy Clerk, and thereafter in the office of the Clerk for such district, or, as the case may be, of the Deputy Clerk of such superior Court as, in respect of the civil jurisdiction of the said Supreme Court, is established for the province in lieu thereof;

(*b*) A copy of the certificate shall thereupon be posted up in a conspicuous place in the office of the Clerk of the Court, or of the Deputy Clerk, as the case may be, and shall remain so posted up for a period of not less than two weeks;

(*c*) At any time after such copy is first so posted up any one may file with the Clerk of the Court, or with the Deputy Clerk, as the case may be, a written notice of objection to the certificate of naturalization being granted, stating the grounds of such objection;

(*d*) Not later than three weeks after the certificate is so filed, the Clerk of the Court, or the Deputy Clerk, as the case may be, shall present to the Judge, or transmit to him by registered letter, the certificate and all notices of objection filed with him, if any, with a certificate under his hand and the seal of the Court that a copy of the certificate has been duly posted up in his office as above required, and, if no notice of objection has been filed with him, that such is the case;

(*e*) Within one week following the receipt by the Judge of the certificate and such other material, he shall hold a sitting in chambers, at which, if no notice of objection has been filed, and if the certificate appears to be regular and sufficient, he shall direct the issue to the alien of a certificate of naturalization, and, if any notice of objection has been received, or if the certificate is defective or otherwise open to objection, he shall decide such objection in a summary way, and shall make such direction or order as the justice of the case requires;

(*f*) The Judge shall have power to adjourn the hearing of any such case from time to time. (4—5 E. VII, c. 25, s. 1; c. 3, s. 16; c. 42, s. 16.)

21. In the Northwest Territories such certificates shall be presented to such authorities or persons as are prescribed by order or regulation of the Governor-in-Council, and thereupon such authority or person shall take such proceedings with respect to such certificate, and shall cause the same to be filed of record in such way as is prescribed by such order or regulation. (R.S., c. 113, s. 12; 3 E. VII, c. 38, s. 3.)

22. The alien shall after the filing of such certificate be entitled to a certificate of naturalization in Form C authenticated

(*a*) Under the seal of the Court, if such certificate has been presented to a Court; or,

(*b*) If the certificate has been presented to an authority or person, as prescribed by order or regulation of the Governor-in-Council, in manner prescribed by such order or regulation. (R.S., c. 113, s. 13.)

23. The certificate granted to an alien who applies for naturalization on account of service under the Government of Canada or of any province or of any two or more of such Governments shall be filed of record in the office of the Secretary of State of Canada.

(2) After such filing, the Governor-in-Council may authorize the issue of a certificate of naturalization to such alien, in Form D. (R.S., c. 113, s. 14.)

Rights of Aliens Naturalized.

24. An alien to whom a certificate of naturalization is granted shall, within Canada, be entitled to all political and other rights, powers and privileges, and be subject to all obligations, to which a natural-born British subject is entitled or subject within Canada, with this qualification that he shall not, when within the limits of the foreign State of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject, unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty or convention to that effect. (R.S., c. 113, s. 15.)

Special Certificate.

25. A special certificate of naturalization, in Form E, may, in manner aforesaid, be granted to any person with respect to whose nationality, as a British subject, a doubt exists.

(2) Such certificate may specify that the grant thereof is made for the purpose of quieting doubts as to the rights of such person to be deemed to be a British subject.

(3) The grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject. (R.S., c. 113, s. 16.)

Certificate as to Aliens Naturalized.

26. An alien naturalized previously to the 4th July, 1883, may apply for a certificate of naturalization under this Act.

(2) Such certificate may be granted to such naturalized alien upon the same terms and subject to the same conditions upon which such certificate might have been granted if such alien had not been previously naturalized. (R.S., c. 113, s. 17.)

Certificate of Readmission.

27. A statutory alien may, upon the same terms and subject to the same conditions as are required in the case of an alien applying for a certificate of naturalization, except that residence in Canada for not less than three months shall be sufficient, apply to the proper Court or authority or person in that behalf for a certificate in Form F, hereinafter

referred to as a „certificate of admission to British nationality,“ readmitting him to the status of a British subject within Canada. (R.S., c. 113, s. 18; 3 E. VII, c. 38, s. 4.)

28. A statutory alien, to whom a certificate of readmission to British nationality within Canada has been granted, shall, from the date of the certificate of readmission, but not in respect of any previous transaction, resume his position as a British subject within Canada, with this qualification, that within the limits of the foreign State of which he became a subject, he shall not be deemed to be a British subject within Canada, unless he has ceased to be a subject of that foreign State according to the laws thereof, or in pursuance of a treaty or convention to that effect. (R.S., c. 113, s. 19.)

Provisions in case of Convention with Foreign State.

29. When any foreign State has, before or after the 4th July, 1883, entered into a convention with His Majesty to the effect that the subjects of that State who have been naturalized as British subjects may divest themselves of their status as subjects of such foreign State, and, when such convention, or the laws of such foreign State require a residence in Canada of more than three years or a service under the Government of Canada, or of any of the provinces of Canada, or of two or more of such Governments of more than three years, as a condition precedent to such subjects divesting themselves of their status as such foreign subjects, an alien being a subject of such foreign State, who desires to divest himself of his status as such subject, may, if at the time of taking the oath of residence or service he has resided or served the length of time required by such convention or by the laws of the foreign State, instead of taking the oath showing three years' residence or service, take an oath showing residence or service for the length of time required by such convention or by the laws of the foreign State. (R.S., c. 113, s. 20.)

30. The certificate of naturalization granted to the alien under the last preceding section shall state the period of residence or service sworn to; and such statement shall be sufficient evidence of such residence or service in all Courts and places whatsoever. (R.S., c. 113, s. 20.)

31. An alien who, either before or after the 4th July, 1883, has, whether under this Act or otherwise, become entitled to the privileges of British birth in Canada, and who is a subject of a foreign State with which a convention to the effect above mentioned has been entered into by His Majesty, and who desires to divest himself of his status as such subject, and who has resided or served the length of time required by such convention or by the laws of the foreign State, may take the oath of residence or service showing residence or service for the length of time required by such convention or by the laws of the foreign State, and apply for a certificate, or a second certificate, as the case may be, of naturalization under this Act. (R.S., c. 113, s. 21.)

Status of Married Women and Infant Children.

32. A married woman shall, within Canada, be deemed to be a subject of the State of which her husband is, for the time being, a subject. (R.S., c. 113, s. 22.)

33. A widow who is a natural-born British subject and who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may, as such, at any time during widowhood, obtain a certificate of readmission to British nationality, within Canada, as hereinbefore provided. (R.S., c. 113, s. 23.)

34. If the father, being a British subject, or the mother, being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who, during infancy, has become a resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall, within Canada, be deemed to be subject of the State of which the father or mother has become a subject, and not a British subject. (R.S., c. 113, s. 24.)

35. If the father, or the mother being a widow, has obtained a certificate of readmission to British nationality within Canada, every child of such father or mother who, during infancy, has become resident within Canada with such father or mother, shall be deemed to have resumed the position of British subject within Canada, to all intents. (R.S., c. 113, s. 25.)

36. If the father, or the mother being a widow, has obtained a certificate of naturalization within Canada, every child of such father or mother who, during infancy, has become resident with such father or mother within Canada, shall, within Canada, be deemed to be a naturalized British subject. (R.S., c. 113, s. 26.)

37. Nothing in this Act contained shall deprive any married woman of any estate or interest in real or personal property to which she became entitled before the 4th July, 1883, or affect such estate or interest to her prejudice. (R.S., c. 113, s. 27.)

Regulations.

38. The Governor-in-Council may make regulations respecting the following matters:

(*a*) The form and registration of declarations of British nationality;

(*b*) The form and registration of certificates of naturalization in Canada;

(*c*) The form and registration of certificates of readmission to British nationality within Canada;

(*d*) The form and registration of declarations of alienage;

(*e*) The transmission to Canada, for the purpose of registration or safe keeping or of being produced as evidence, of any declarations or certificates made in pursuance or for the purposes of this Act, out of Canada, or of any copies of such declarations or certificates, and of the originals or copies of oaths received under this Act out of Canada; also,

of copies of entries of such oaths contained in any register kept out of Canada in pursuance or for the purposes of this Act;

(*f*) The persons by whom the oaths may be administered under this Act;

(*g*) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested;

(*h*) The registration of such oaths;

(*i*) The persons by whom certified copies of such oaths may be given;

(*j*) The proof, in any legal proceedings, of such oaths;

(*k*) With the consent of the Treasury Board, the imposition and application of fees not fixed by this Act, in respect of any registration, or of the making or granting of any declaration or certificate, and the administration or registration of any oaths authorized by this Act. (R.S., c. 113, s. 28.)

39. Any regulation made by the Governor-in-Council under this Act shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act. (R.S., c. 113, s. 29.)

Evidence.

40. Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by the Clerk or acting Clerk of the King's Privy Council for Canada, or by any person authorized by regulation of the Governor-in-Council to give certified copies of such declaration.

(2) The production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned. (R.S., c. 113, s. 30.)

41. A certificate of naturalization or of readmission to British nationality may be proved in any legal proceeding by the production of any original certificate, or of any copy thereof certified to be a true copy by the Clerk or acting Clerk of the King's Privy Council for Canada, or by any person authorized by regulation of the Governor-in-Council to give certified copies of such certificate. (R.S., c. 113, s. 31.)

42. The statement of the period of residence or service in a certificate of naturalization shall be sufficient evidence of such residence or service in all Courts and places whatsoever. (R.S., c. 113, s. 31.)

43. Entries in any register authorised to be made in pursuance of this Act may be proved by such copies and certified in such manner as is directed by regulation of the Governor-in-Council, by the Clerk or acting Clerk of the King's Privy Council for Canada, or by the Secretary of State.

(2) The copies of such entries shall be evidence of any matters by this Act or by any regulation of the Governor-in-Council authorised to be inserted in the register. (R.S., c. 113, s. 32.)

44. A copy of any certificate of naturalization may be registered in the land registry office of any county or district or registration division within Canada, and a copy of such registry, certified by the Registrar or other proper person in that behalf, shall be sufficient evidence of the naturalization of the person mentioned therein, in all Courts and places whatsoever. (R.S., c. 113, s. 33.)

General.

45. The Governor-in-Council may, from time to time, appoint commissioners to take and administer oaths under this Act. (R.S., c. 113, s. 34.)

46. If any British subject has, in pursuance of this Act, become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien. (R.S., c. 113, s. 35.)

47. The Clerk of the Court and the persons or authorities by whom the certificate of naturalization is issued shall, for all services and filings in connection with such certificate, be entitled to receive, from the person naturalized, the sum of 25 cents and no more; and no further or other fee shall be payable for or in respect of such certificate. (R.S., c. 113, s. 36.)

48. The Registrar shall, for recording a certificate of naturalization, be entitled to receive from the person producing the same for registry, the sum of 50 cents, and a further sum of 25 cents for every search and certified copy of the same and no more. (R.S., c. 113, s. 36.)

49. Every person who, being by birth an alien, had, on or before the 4th July, 1883, become entitled to the privileges of British birth within any part of Canada, by virtue of any general or special Act of naturalization in force in such part of Canada, shall hereafter be entitled to all the privileges by this Act conferred on persons naturalized under this Act. (R.S., c. 113, s. 37.)

50. Nothing in this Act contained shall repeal or in any manner impair or affect

(*a*) The Act of the Legislature of Upper Canada, passed in the 54th year of the reign of His late Majesty King George the Third, intituled „An Act to declare certain persons, therein described, aliens, and to vest their estates in His Majesty“; or,

(*b*) The Act of the Legislature of the late province of Canada, passed in the 24th year of the reign of Her late Majesty Queen Victoria, chapter 44, and intituled „An Act respecting forfeited estates in Upper Canada“; or,

(*c*) Any proceedings had under the said Acts; or,

(*d*) The Act of the Legislature of the late province of Canada, passed in the session held in the fourth and fifth years of the reign of Her late Majesty Queen Victoria, chapter 7, intituled „An Act to secure to, and confer upon, certain inhabitants of this Province, the civil and political rights of natural-born British subjects“; or,

(*e*) The First, Second, or Third Sections of the Act of the said Legislature, passed in the twelfth year of the reign of Her late Majesty Queen Victoria, chapter 197, intituled „An Act to repeal a certain Act therein mentioned and to make better provision for the naturalization of Aliens"; or,

(*f*) The naturalization of any person naturalized under the said two last mentioned Acts, or either of them, or any rights acquired by such person or by any other person by virtue of such naturalization, all which shall remain valid and be possessed and enjoyed by such person respectively. (R.S., c. 113, ss. 38-39.)

51. Every person who, being by birth an alien, did, prior to the 1st January, 1868, take the oaths of residence and allegiance required by the laws respecting naturalization then in force in that one of the provinces now forming the Dominion of Canada, in which he then resided, shall, within Canada, be entitled to all the rights and privileges of a natural-born British subject conferred upon naturalized persons by this Act; and the certificate of the Judge, Magistrate, or other person before whom such oaths were taken and subscribed, shall be evidence of his having taken them; or, he may take and subscribe the oath in Form G, before some Judge, Justice, or person authorized to administer the oaths of residence and allegiance under this Act, in the county or district in which he resides. (R.S., c. 113, s. 40.)

52. All aliens who had their settled place of abode

(*a*) In either of the late provinces of Upper Canada, or Lower Canada, or Canada, or in Nova Scotia, or New Brunswick, on or before the 1st July, 1867; or,

(*b*) In Ruppert's Land or the Northwest Territories, on or before the 15th July, 1870; or,

(*c*) In British Columbia, on or before the 20th July 1871; or,

(*d*) In Prince Edward Island, on or before the 1st July, 1873; and who are still residents in Canada, shall be deemed, adjudged, and taken to be, and to have been entitled to all the privileges of British birth within Canada as if they had been natural-born subjects of His Majesty. (R.S., c. 113, s. 41.)

53. No such person referred to in the last preceding section, being a male, shall, however, be entitled to the benefit of this Act, unless he takes the oaths of allegiance in Form A, and of residence in Form H, before some Justice of the Peace or other person authorized to administer oaths under this Act. (R.S., c. 113, s. 41.)

54. The oaths taken by any person, under the two last preceding sections shall be filed of record

(*a*) In the province of Ontario, with the Clerk of the Peace of the county in which such person resides;

(*b*) In the province of Quebec, with the Clerk of the Circuit Court of the circuit within which such person resides;

(*c*) In Nova Scotia, with the prothonotary of the Supreme Court;

(*d*) In New Brunswick, with the Clerk of the Supreme Court;

(*e*) In British Columbia, with the Clerk of the Supreme Court;

(*f*) In Prince Edward Island, with the Clerk of the Supreme Court of Judicature;

(*g*) In Manitoba, with the Clerk of the Court of King's Bench, or with the Clerk of the County Court of the county in which such person resides;

(*h*) In the province of Saskatchewan or Alberta, with the Clerk of the Supreme Court of the Northwest Territories pending the abolition of that Court by the legislature of the province, and thereafter with the Clerk of such superior Court of Justice as in respect of the civil jurisdiction of the said Court is established for the province in lieu thereof;

(*i*) In the Yukon Territory, with the Clerk of the Territorial Court;

(*i*) In the Northwest Territories, with such person or authority as is prescribed by Order or regulation of the Governor-in-Council. (R.S., c. 113, s. 42; 4-5 E. VII, c. 3, s. 16; c. 42, s. 16.)

55. Upon the oath being so filed, the person taking it shall be entitled to the benefit of this Act and of the privileges of British birth within Canada, and shall also, upon payment of a fee of 25 cents, be entitled to a certificate, in Form I, from the person with whom the oaths have been filed.

(2) The production of such certificate shall be *primâ facie* evidence of the naturalization of such person under this Act, and that he is entitled to and enjoys all the rights and privileges of a British subject. (R.S., c. 113, s. 42.)

56. No alien shall be naturalized within Canada, except under the provisions of this Act. (R.S., c. 113, s. 43.)

Return to the Secretary of State.

57. The Clerk of every Court which is, and the persons or authorities who are, required to grant certificates under this Act shall, on or before the 15th January and 15th July in each year, make a return of the half years ending respectively with the 31st December and the 30th June next preceding the date of such returns, to the Secretary of State of Canada of all persons to whom certificates of naturalization or of readmission to British nationality have been granted by such Court, person or authority, as the case may be, or who have taken the oath and been granted the certificates above referred to. (2 E. VII, c. 23, s. 2.)

58. Such returns shall set forth with respect to each such person

(*a*) His name, residence and addition, and his former residence and nationality;

(*b*) The nature of the certificate granted or oath taken;

(*c*) The date when and the place where the same were granted or taken; and,

(*d*) Any other particulars which the Governor-in-Council may require. (2 E. VII, c. 23, s. 3.)

59. Such return shall be accompanied by certified copies of each certificate granted during the half year. (2 E. VII, c. 23, s. 3.)

60. All returns made pursuant to this Act and all copies of certificates received with any such returns shall remain of record in the Department of the Secretary of State. (2 E. VII, c. 23, s. 5.)

61. There shall be prepared and kept in the Department of the Secretary of State two alphabetical lists of the persons appearing from such returns, and from the records of the said Department, to have been naturalized or readmitted to British nationality, one of which shall contain the names of persons naturalized or readmitted to British nationality prior to the 15th day of May, 1902, and the other, those of persons thereafter or who may henceforth be naturalized or readmitted to British nationality. (2 E. VII, c. 23, s. 5.)

62. The fees for the preparation and transmission of returns made pursuant to this Act may, from time to time, be fixed by the Governor-in-Council. (3 E. VII, c. 38, s. 6.)

63. Any person shall be entitled during the usual office hours of the said Department, and upon payment of such fees as may be prescribed by the Governor-in-Council, to have a search made of such lists, and of the returns and copies of certificates of record under this Act. (2 E. VII, c. 23, s. 6.)

64. The Secretary of State, upon request, and upon payment of such fees as are so prescribed, shall issue certificates as to the details shown by such lists or such return with respect to any person whose name appears therein as having been naturalized or readmitted to British nationality, and furnish certified copies of or extracts from any matter of record in the Department under this Act. (2 E. VII, c. 23, s. 6.)

Penalties.

65. Any person who refuses or neglects to make any return required of him by this Act, within the time limited therefor, is guilty of an offence and liable, upon summary conviction, to a penalty of 50 dollars. (2 E. VII, c. 23, s. 7.)

66. Every person who wilfully swears falsely, or makes any false affirmation under this Act, shall, on conviction thereof, in addition to any other punishment authorized by law, forfeit all the privileges or advantages which he would otherwise, by making such oath or affirmation, have been entitled to under this Act; but the rights of other persons, in respect of any property or estate derived from or held under him, shall not thereby be prejudiced, unless such persons were cognizant of the false swearing or the making of the false affirmation at the time the title by which they claim to hold under him was created. (R.S., c. 113, s. 44.)

Schedule.*)

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*) Non imprimé.

Act of the Government of Canada to amend the Naturalization Act.

[6 and 7 Edw. VII, c. 31.] [Assented to January 30, 1907.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as „The Naturalization Amendment Act, 1907."

2. Any person resident in Canada, or in the service of the Government of Canada or of any province of Canada, who has obtained a certificate or letters of naturalization in the United Kingdom, or in any part thereof, or in any British Colony or possession, which certificate or letters remains or remain in full force and effect, and who desires to be naturalized in Canada may, if he intends when naturalized either to reside in Canada or to serve under the Government of Canada or the government of any such province, apply for a certificate of naturalization in manner hereinafter prescribed, without having complied with the condition as to residence required under Section 13 of „The Naturalization Act," chapter 77, of the Revised Statutes, 1906.

3. The applicant shall take and subscribe, before some person competent to administer oaths under Section 14 of the said Act, the oath of allegiance, in Form A in the Schedule to the said Act, and one of the oaths, Forms 1 and 2 in the Schedule to this Act, and shall produce to such person his certificate or letters of naturalization aforesaid, and adduce, in support of his application, such evidence of his residence or service, and intention to reside or serve, as such person requires, and such person, on being satisfied with such evidence and that the applicant is of good character, shall grant to him a certificate in Form 3 in the Schedule of this Act.

4. The provisions of Sections 16 to 23 of the said Act with regard to the presentation and filing of the certificate in Form B and the proceedings thereupon and with respect thereto shall, *mutatis mutandis,* and except as hereinafter provided, apply to the presentation and filing of the certificate granted under the last preceding section, and the proceedings thereupon and with respect thereto.

5. There shall in such cases be presented to the Court, or to the authority or person prescribed under Section 21 of the said Act, together with the certificate in Form 3, the certificate or letters of naturalization aforesaid.

6. The certificate of naturalization to be granted to the applicant may be in Form 4 in the Schedule to this Act.

Schedule.*)

*) Non imprimé.

149.

ARGENTINE, CHILI.

Convention pour établir un échange des publications officielles; signée à Santiago, le 12 février 1907.

República Argentina. Tratados, Convenciones etc. Publicación oficial. VII (1911), p. 349.

Reunidos el día doce de Febrero de mil novecientos siete en el Ministerio de Relaciones Exteriores de la República de Chile, el Sr. Lorenzo Anadón, Enviado Extraordinario y Ministro Plenipotenciario de la República Argentina, y el Sr. Ricardo Salas Edwards, Ministro del Ramo, animados del deseo de establecer en una forma regular y permanente el Canje de las Publicaciones de ambos Países, han creído conveniente substituir lo convenido de ocho de Febrero de mil ochocientos noventa y cuatro, entre los mismos Países, y sobre esta misma materia, por el siguiente:

Artículo 1.⁰ Los Gobiernos de la República Argentina y de la República de Chile se comprometen á enviarse recíprocamente cinco ejemplares de cada una de las siguientes publicaciones que se hagan en su respectivo territorio, ó en el extranjero:

1.⁰ El Diario Oficial, y los documentos parlamentarios, administrativos y de estadística;

2.⁰ Las obras nacionales de toda especie, publicadas ó subvencionadas por los respectivos Estados;

3.⁰ Los mapas geográficos generales ó particulares, los planos topográficos y otras obras de este género, entregadas á la publicidad por ambos Gobiernos.

Art. 2.⁰ La remisión de las publicaciones se hará por cada Ministerio de Relaciones Exteriores al Agente Diplomático de cada País, para que este las envíe á su Gobierno en la forma ordinaria.

Art. 3.⁰ A medida que cada uno de los Gobiernos reciba las publicaciones del otro, dará aviso de su recepción en el Diario Oficial, indicando la oficina ó biblioteca en que el público pueda concurrir á consultarla.

Art. 4.⁰ El presente Convenio principiará á regir desde el 1.⁰ de Abril próximo y estará en vigencia hasta seis meses después que una de las Partes Contratantes manifieste á la otra su voluntad de hacerlo cesar.

En fe de lo cual, el Enviado Extraordinario y Ministro Plenipotenciario de la República Argentina y el Ministro de Relaciones Exteriores de Chile firman en doble ejemplar el presente Convenio y lo sellan con sus respectivos sellos, en Santiago de Chile, á doce días del mes de Febrero del año mil novecientos siete.

(L. S.) *Lorenzo Anadón.*
(L. S.) *Ricardo Salas Edwards.*

150.

BOLIVIE.

Règlement concernant l'immigration, du 18 mars 1907.

Publication officielle. La Paz 1907.

Ismael Montes,

Presidente Constitucional de la República.

Considerando:

Que ha llegado el momento de iniciar los trabajos de inmigración en Bolivia, para impulsar el progreso de la agricultura y el desarrollo de las industrias nacionales;

Que habiéndose fijado en el Presupuesto Nacional vigente una partida destinada á este objeto;

En uso de la atribución que me confiere la Constitución Política del Estado, decreto el siguiente:

Reglamento de Inmigración libre.

I.

Del inmigrante y las franquicias que goza.

Artículo 1°. Se considera como inmigrante á todo extranjero, obrero, agricultor ó industrial, que teniendo menos de sesenta años y comprobando su moralidad y aptitudes, quiera establecerse en el territorio de la República.

Art. 2°. El inmigrante que venga al país á establecerse, gozará, por ahora, de las franquicias siguientes;

a) Transitar hasta el lugar de su destino por las líneas férreas ó empresas carreteras de la República.

Esta franquicia se extiende á su mujer y á los hijos varones de más de 18 años.

b) Poder trasportar su equipaje libre de derechos.

Se entiende por equipaje:

La cama y útiles domésticos de cocina y habitación;

Las herramientas del oficio y los instrumentos de profesión;

Una arma de caza.

c) Ocupar una extensión de terrenos del Estado para implantar trabajos de agricultura, cría de ganados ó industrias útiles.

El terreno que pueda ocupar cada inmigrante será de 50 hectáreas por persona cuya avaluación se fija en 10 centavos la hectárea.

Los hijos mayores de 14 años tendrán derecho á un lote de 25 hectáreas.

d) Gozar de facilidades para el pago de los terrenos que ocupe.

Estas facilidades se entienden de la manera siguiente: el inmigrante podrá pagar al contado ó por anualidades repartidas en cinco períodos, en este último caso se agregará un cinco por ciento anual sobre el valor del terreno ocupado; libertad para poder comenzar á pagar las anualidades á partir del tercer año de su establecimiento, con una rebaja del cinco por ciento sobre las cantidades pagadas con anticipación.

e) Derecho para pedir á la Oficina de Trabajo, todos los datos, indicaciones, recomendaciones, y facilidades que se le puedan conceder en conformidad con el presente Reglamento.

II.

De la distribución de tierras y las condiciones de propiedad de ellas.

Art. 3⁰. Todo inmigrante que llene los requisitos fijados por este Reglamento, tiene derecho á adquirir tierras del Estado bajo las condiciones que se detallan á continuación.

Art. 4⁰. Los lotes serán demarcados y designados por los Ingenieros que comisione el Ministerio de Colonización y Agricultura y la adjudicación se hará mediante escritura pública.

Art. 5⁰. Los inmigrantes podrán escoger libremente el lote que deseen, en las zonas señaladas para la inmigración, pagando el precio fijado, y en las condiciones designadas por el artículo 2⁰.

Art. 6⁰. Los hijos mayores de 18 años tendrán derecho á adquirir lotes, para establecerse separadamente, cuando así lo pidieren.

Art. 7⁰. El inmigrante que posea un lote definitivo, podrá adquirir por compra ú otro medio regular hasta dos lotes más, pero solamente después de tres años de residencia y cultivo real de su lote.

Art. 8⁰. Ningún inmigrante podrá poseer más te tres lotes por compra, hipoteca ú otro medio cualquiera.

Art. 9⁰. En caso de partición de herencia, no se permitirá que la división de un lote sea menor de 16 hectáreas.

Art. 10. Los lotes serán entregados con la mensura y demarcación respectivas.

Art. 11. Al hacer la mensura de los lotes, se dejará uno intermedio en cada adjudicación.

Art. 12. Los títulos de propiedad para los inmigrantes se dividen en dos clases: provisorios y definitivos.

a) Los primeros serán entregados y firmados por el comisionado del Gobierno á los inmigrantes que adquieran tierras á plazo; los segundos, firmados por el Gobierno, y ante el Notario de Hacienda, serán dados á los que hubiesen saldado sus cuentas.

b) Los títulos provisorios ó definitivos serán entregados gratuitamente á los inmigrantes, cuando los pidan.

c) En caso de compra á plazo, el inmigrante no podrá enajenar, hipotecar ni sujetar á ningún gravamen las tierras ni las mejoras que haya hecho, considerándose, unas y otras, hipotecadas á la hacienda pública, mientras no se efectúe el pago completo del lote.

No queda comprendido en esta disposición el caso de herencia legítima, en el que, pasará la propiedad al heredero, con sus gravámenes y obligaciones.

d) Los títulos provisorios y definitivos serán inscritos en un libro especial en la Oficina de Trabajo, fuera de ser registrados en la Notaría de Hacienda.

e) En la inscripción de los títulos definitivos se detallará: 1º la exacta descripción de los límites del lote; 2º las distancias y rumbos de las líneas divisorias; 3º la superficie cuadrada y los nombres de los lotes colindantes; 4º las condiciones y obligaciones á que quedan sujetos los colonos compradores. Debe incluirse en cada título un pequeño plano de la propiedad.

Art. 13. Todo inmigrante que dentro de dos años de adquiridos sus títulos desde la fecha de la posesión, no hubiese establecido su morada habitual ni hubiese emprendido el cultivo de su terreno, perderá el derecho al lote, el que será rematado en pública subasta, prévios los anuncios respectivos.

Del producto de la venta se deducirá, en primer lugar, el monto de lo adeudado al Estado, después las deudas á que estuviese afecta la propiedad, y lo que quedare, será entregado al inmigrante, y en su ausencia, depositado en el Tesoro Nacional.

III.

De las oficinas de información y recepción de los inmigrantes.

Art. 14. Los Consulados de la República, en general, y particularmente las oficinas consulares de Hamburgo, Viena, Amberes, Barcelona, París, Burdeos, Havre, Marsella, Lyon, Londres, Liverpool, Génova, Nápoles, Roma, Turín, Milán, Lisboa, Stockolmo, Berna y Ginebra, se constituyen como oficinas de información para inmigrantes, y como Agentes directos del Gobierno.

Art. 15. Estas oficinas tienen la obligación de procurar á los inmigrantes é industriales que los soliciten, informes detallados sobre el país y sus condiciones naturales, comerciales é industriales; gestionar, con sus influencias, facilidades al inmigrante para su movilidad y ventajosas condiciones de trasporte, particularmente, con las compañias de vapores, con las que pueden negociar una rebaja, que generalmente, conceden á los grupos inmigrantes.

Para estos fines el Ministerio de Colonización remitirá publicaciones de propaganda, en los idiomas más usuales, y todas las noticias é instrucciones que sean precisas.

Art. 16. Las Oficinas de información tendrán una subvención especial, para atender á los gastos de propaganda.

Art. 17. Los agentes de inmigración enviarán, con cada grupo de inmigrantes, una lista de los que lo compongan, en la que se expresarán las siguientes circunstancias: nombre del vapor que trae la remesa, fecha del embarco, nombre y apellido del inmigrante; su edad, sexo, estado, nacionalidad, oficio; si sabe leer y escribir; punto de salida y lugar de destino. Se indicará también si los inmigrantes vienen en calidad particular ó contratados por empresas de inmigración ó colonización.

Art. 18. Los Agentes de Inmigración exigirán á los inmigrantes libres un certificado del distrito municipal de que provienen, que exprese su moralidad, oficio ó profesión que ejerzan y condiciones personales conocidas.

Art. 19. Si la inmigración se efectuase colectivamente, bajo la dirección de empresarios, ó por pedido particular, el Agente oficial del Gobierno intervendrá en la contratación y cuidará del embarque y demás diligencias del caso. Además, vigilará de que los empresarios expongan la verdad á los inmigrantes y definan las condiciones de la contrata, á fin de que no sean engañados con promesas y relaciones exageradas, que redundarían en daño del país.

Art. 20. En el Ministerio de Colonización y Agricultura se establecerá una oficina especial con el nombre de *Oficina de Trabajo,* encargada exclusivamente de inmigración.

Art. 21. La Oficina de Trabajo se encargará de recibir á los inmigrantes, proporcionarles sus pasajes personales y de equipajes, designarles los lotes de tierras que van á ocupar y buscarles colocación, si son artesanos ó profesionales, inscribirlos en el libro respectivo y proporcionarles toda clase de facilidades hasta su instalación.

Art. 22. En esta Oficina se llevará un libro de inscripción de inmigrantes, con todas las especificaciones del caso, un libro de registro de los lotes de terreno adjudicados, un libro ó libros de gastos y entradas.

Art. 23. Los fondos destinados para el fomento de inmigración serán administrados por esta Oficina.

Art. 24. Las personas que deseen contratar inmigrantes, tanto entre los individuos que particularmente se dirijan al país como en los centros emigrantes de Europa, se entenderán con la Oficina de Trabajo, si quieren gozar de las facilidades que concede este Reglamento; debiendo, en este caso, pedir por escrito al Ministerio de Colonización la autorización prévia para introducir inmigrantes, expresando el número de individuos que deseen traer, el empleo á que se les destina y su sometimiento á las prescripciones de este Reglamento.

Art. 25. Las contratas particulares de emigrantes que se hagan sin llenar las anteriores condiciones, no gozarán de ninguna de las facilidades otorgadas por el presente Reglamento.

Art. 26. En las capitales de Departamento se crean comisiones de inmigración, compuestas del Prefecto del Departamento, un miembro del Concejo Municipal y un Secretario de elección, éste rentado, que coope-

rarán á la Oficina Central de Trabajo en todas sus labores, principalmente, en la colocación é instalación de los inmigrantes en las zonas y regiones á que se les destina.

IV.

Fondos para propaganda.

Art. 27. Se consideran como fondos especiales para propaganda de inmigración, los destinados por el Presupuesto del ramo para este objeto.

Art. 28. La inversión de estos fondos, y los demás que pudieran destinarse para el objeto, se hará en publicaciones de propaganda, pago de pasajes á las empresas particulares de vialidad y gastos de la Oficina de Trabajo y de las Oficinas de Inmigración en Europa.

V.

Derechos y obligaciones de los inmigrantes.

Art. 29. Los inmigrantes, fuera de los derechos especiales que gozan por este Reglamento, disfrutan de las garantías concedidas á los extranjeros por la Constitución Política del Estado.

Art. 30. Están obligados á observar las leyes del país y los reglamentos especiales de inmigración y colonización que dictaren las autoridades constituidas.

Art. 31. Los centros de inmigración que alcancen á cien familias establecidas, tendrán escuelas para ambos sexos, sostenidas por el Estado.

Art. 32. El Ministro de Colonización y Agricultura queda encargado de la ejecución del presente Decreto.

Es dado en la ciudad de La Paz, á los diez y ocho días del mes de marzo de mil novecientos siete años.

Ismael Montes.

M. V. Ballivián.

Es conforme:

Julio C. Valdés,
Oficial Mayor de Colonización y Agricultura.

151.

JAPON, CHINE.

Arrangement concernant les chemins de fer de Sinmintun à Mukden et de Kirin à Changchun; signé à Péking, le 15 avril 1907, suivi d'un Arrangement additionnel, signé le 12 novembre 1908.

The Japan Times du 18 avril 1907. — Copie officielle.

I.

Agreement relating to the Sinmintun-Mukden and Kirin-Changchun Railways.

Article I. The Chinese Government, in purchasing the railway constructed by Japan between Sinmintun and Mukden, shall pay 1,660,000 *yen*, the price mutually agreed upon, to the Yokohama Specie Bank at Tientsin. The Chinese Government in reconstructing the railway, shall borrow half of funds required in the work east of the Liao from the South Manchurian Railway Company.

Article II. The Chinese Government in constructing a railway between Kirin and Changchun shall borrow half of the necessary funds from the South Manchuain Railway Company.

Article III. Terms of the loans mentioned in Articles I. and II. shall be fixed according to the terms of the loans of the railways in and out Shanhaikwan, except the provisions relating to the date of repayment. Principal terms are as follows. As for the regulations relating to the conduct of general affairs of the railways, the present regulations of the Bureau of Railways in and out Shanhaikwan shall be followed.

(*a*) Term of redemption of the loan shall be 18 years with regard to the loan relating to the Sinmintun Mukden Railway east of the Liao, and 25 years with regard to the loan relating to the Kirin-Changchun Railway. No repayment shall be made before the above mentioned dates.

(*b*) The property and receipts of the Sinmintun-Mukden Railway east of the Liao shall be offered as security for the South Manchurian Railway Company's loan relating to that railway. The property and receipts of the Kirin-Changchun Railway shall be offered as security for future contracts by the Kirin Railway Bureau and for the loan from the South Manchuriau Railway Company.

During the term of redemption of the loans, the Chinese Government shall maintain in good condition the railway east of the Liao, Kirin-Changchun Railway, the premises, workshops, rolling stock, land, movables, etc.,

and endeavour to replenish from time to time the rolling stock required for maintaining traffic.

If, in the case of future extension of the Kirin-Changchun Railway or construction of branch lines, there occur a deficit in capital to be paid by the Chinese Government, the latter shall ask the Company for a loan. But in case the Chinese Government constructs other railways on its own account, it has no need to consult the Company.

(*c*) The Chinese Government guarantees the payment of the principal and interest of the loans. When payment does not take place at the date mentioned, the Chinese Government on receiving notification from the company shall pay the required sum. In the event of the Chinese Government failing after receiving the above notification to pay the principal and interest in arrear, the above railways and the whole of their property shall be handed over to the Company, and placed under its control until the said principal and interest shall have been paid. But when the sum in arrears is small, a grace of not more than 3 months may be allowed. (The clause in Chinese is identical with a clause in the Contract of the Anglo-Chinese Syndicate.)

(*d*) During the term of the loans, Japanese shall be engaged as chief engineer. In the event of a sufficient number of Chinese not forthcoming for the conduct of railway business, Japanese shall be engaged. The change of chief engineer, if necessary, shall be effected by consulting with the Company.

Moreover an experienced Japanese shall be engaged as railway accountant. He shall have full responsibility for the disposition and superintendence of matters relating to the railway account business. He shall discharge the task of superintendence always in consultation with the general Director of the railways.

(*e*) The above railways, being under the jurisdiction of the Chinese Government, shall carry gratis the troops and provisions sent by the Chinese Government in time of war or famine.

(*f*) Receipts of the above railways shall be all deposited with the Japanese banks. The methods of paying in the deposits shall be decided upon by negotiations to be carried out for the conclusion of the loan contract.

Article IV. The Chinese Government, after the purchase of the present Sinmintun-Mukden Railway, shall conclude, as soon as possible, the loan contract relating to the railway east of the Liao. Again, the Chinese Government shall cause Chinese and Japanese engineers to co-operately survey the route of the Kirin-Changchun Railway, in order to investigate the expenses required for its construction. The loan contract with the South Manchurian Railway Company shall be concluded within six months after the conclusion of the said investigations.

Article V. Both the Sinmintun-Mukden and Kirin-Changchun Railways to be constructed by China shall be connected with the South Manchurian Railway. All regulations relating to this connection shall be de-

cided upon in negotiations to be carried out between the committees to be appointed respectively by the Chinese Railway Bureau and South Manchurian Railway Company.

Article VI. The actual receipts of the loans mentioned in Articles I. and II. shall be equitably fixed in reference to the latest loan contract concluded by China with other countries.

Article VII. The Sinmintun-Mukden Railway shall be handed over within one month after the payment of its price to the commissioners to be dispatched by the Chinese Railway Bureau.

II.

Aus der Shuntienshihpao vom 5. Dezember 1908.

Hsinmintun-Mukden-Eisenbahnzusatzvertrag.

Der zwischen der japanischen und chinesischen Regierung am 3. Tage des 3. Monats des 33. Jahres Kuanghsü (15. April 1907) wegen der Eisenbahnen Hsinmintun-Mukden und Kirin-Changchun geschlossene Vertrag bestimmt in Artikel 4, dass die beiden Mächte noch einen Eisenbahnanleihevertrag schliessen werden. Vor Abschluss dieses Vertrages ist nun zunächst noch ein Zusatzvertrag zum Hauptvertrag geschlossen worden, der folgenden Inhalt hat:

Art. 1.

Gemäss Art. 1 und 2 des Hsinmintun-Mukden und Kirin-Changchun Eisenbahnvertrages (der der Einfachheit halber als „Hauptvertrag“ bezeichnet werden soll) ist die chinesische Regierung bereit, zum Bau der Teilstrecke der Nordchinesischen Eisenbahn östlich vom Liao-Fluss die Hälfte des Kapitals in Höhe von 320000 Yen und zum Bau der Bahn Kirin-Changchun die Hälfte des Kapitals in Höhe von 2150000 Yen von der Südmandschurischen Eisenbahngesellschaft zu leihen.

Art. 2.

Die Zinsen betragen jährlich 5%.

Art. 3.

Der Ausgabekurs wird in Gemässheit des Art. 6 des Hauptvertrages auf 93 festgesetzt.

Art. 4.

Auf Grund der Bestimmungen des Art. 3 des Hauptvertrages ist die chinesische Regierung verpflichtet, während der Anleihezeit für die Teilstrecke der Nordchinesischen Eisenbahn östlich des Liao-Flusses als Chefingenieur einen Japaner anzustellen. Es soll ihr jedoch für den Anfang gestattet sein, dieses Amt dem zur Zeit bei der Nordchinesischen Eisenbahn als Ingenieur beschäftigten Japaner zu übertragen. Die Geschäfte werden in der bisherigen Weise weitergeführt, so dass also die Leitung gemeinsam

in den Händen des Direktors und des Chefingenieurs liegt. Soll später einmal der erwähnte Ingenieur durch einen anderen ersetzt werden, so wird sich die chinesische Regierung mit der Südmandschurischen Eisenbahngesellschaft über die Ernennung einer geeigneten Persönlichkeit ins Benehmen setzen.

Art. 5.

Da eine getrennte Buchführung für die Teilstrecke östlich des Liao-Flusses schwer durchzuführen ist, so verzichtet die japanische Regierung auf die Ernennung eines besonderen japan. Buchhalters. Aus der Summe, die von der chinesischen Regierung jährlich zur Verzinsung und Tilgung des Kapitals zurückgesandt werden muss, wird der pro Monat zurückzuzahlende Betrag ermittelt und dieser als Garantie am 1. jeden Monats von der chinesischen Regierung bei einer von der Südmandschurischen Eisenbahngesellschaft zu bezeichnenden, in China belegenen japanischen Bank eingezahlt, damit daraus zu den vereinbarten Terminen die fälligen Amortisationsbeträge und die Zinsen gezahlt werden können. Ist das Kapital der Anleihe zurückgezahlt, so gibt die Bank die Einlagen mit Zinsen zurück. Diese Bestimmungen gelten, bis in dem später zu schliessenden Anleihevertrag eine andere Regelung erfolgt. Die chinesische Regierung verpflichtet sich ausserdem, der Südmandschurischen Eisenbahngesellschaft den von der Gesamtverwaltung der Nordchinesischen Eisenbahn am Ende jeden Monats aufgestellten Rechnungsauszug und die in englischer Sprache erscheinende Jahresbilanz zur Kenntnisnahme vorzulegen.

Art. 6.

Nach Art. 3 des Hauptvertrages wird als Chefingenieur und als 1. Buchhalter der Kirin-Changchun-Bahn je ein Japaner angestellt. Die Anstellung des Chefingenieurs erfolgt in der Weise, dass die chinesische Regierung eine geeignete Persönlichkeit auswählt, sich mit der Südmandschurischen Eisenbahngesellschaft darüber ins Benehmen setzt und erst dann den Betreffenden ernennt. Der Buchhalter wird dagegen von der Südmandschurischen Eisenbahnverwaltung ausgewählt, und, wenn ein Einverständnis über die in Aussicht genommene Person erzielt ist, von der chinesischen Regierung ernannt. Tritt ein Wechsel in der Person des Chefingenieurs oder des 1. Buchhalters ein, so ist die Südmandschurische Eisenbahngesellschaft in Kenntnis zu setzen und bei der Neuwahl in der geschilderten Weise zu verfahren.

Art. 7.

Die Einzelheiten des Anleihevertrages sind auf Grund der Bestimmungen des Hauptvertrages und dieses Zusatzvertrages vom Delegierten der Südmandschurischen Eisenbahngesellschaft einerseits und des chinesischen Verkehrsministeriums andererseits zu beraten und abzuschliessen.

Dieser Vertrag bedarf der Bestätigung durch die beiden Regierungen.

152.

ARGENTINE, BOLIVIE.

Convention concernant la construction d'un chemin de fer entre Tupiza et Potosi; signée à Buenos Aires, le 18 mai 1907.*)

República Argentina. Tratados, Convenciones etc. Publicación oficial. II (1911), p. 221.

En Buenos Aires, á los diez y ocho días del mes de Mayo de mil novecientos siete, reunidos en el Despacho del Ministerio de Relaciones Exteriores y Culto, Su Excelencia el Sr. Dr. Estanislao S. Zeballos, Ministro Secretario de Estado en el indicado Departamento y Su Excelencia el Sr. Dr. Eliodoro Villazón, Enviado Extraordinario y Ministro Plenipotenciario de Bolivia, debidamente autorizados al efecto, han convenido lo siguiente:

Artículo 1.° El Gobierno de Bolivia organizará, dentro del término de tres meses, una comisión de ingenieros que practique el estudio definitivo de la línea de ferrocarril que debe construirse desde Tupiza á Potosí y se obliga á presentar los planos y estudios de dicha comisión en Diciembre del año próximo ó antes. El estudio consultará la construcción de ramales á Sucre y otros centros industriales importantes.

Art. 2.° El Gobierno Argentino podrá hacer acompañar á la comisión de estudios con un ingeniero que nombrará y al cual la comisión ofrecerá todos los datos y copias de documentos que se consideren útiles.

Art. 3.° Tan luego como el Ferrocarril Central Norte se aproxime, por lo menos, á la mitad de la distancia de la Ciudad de Tupiza, el Gobierno de Bolivia dará principio á la construcción de los terraplenes de la línea de Tupiza á Potosí y dictará todas las medidas necesarias para acelerar la construcción de esta línea, que será continuada desde entonces sin interrupción.

Art. 4.° El Gobierno Argentino se obliga á facilitar el transporte de los materiales destinados á la línea anterior, desde el puerto del Rosario hasta Tupiza, cobrando la tarifa que se aplica á transportes por cuenta del Gobierno.

Art. 5.° El Gobierno Argentino se obliga á su vez á impulsar y llevar á debida ejecución, de acuerdo con los pactos vigentes, la construcción del Ferrocarril Central Norte, hasta la Ciudad de Tupiza.

Art. 6.° En ejecución de la cláusula anterior, se llamará á licitación dentro del corriente año, previa autorización legislativa, para la construcción de la línea desde la frontera de La Quiaca hasta Tupiza, con arreglo á los estudios hechos y aprobados.

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*) Les ratifications ont été échangées à Buenos Aires, le 17 janvier 1908.

En fe de lo cual, los Plenipotenciarios de la República Argentina y de la República de Bolivia, firmaron la presente Convención en doble ejemplar y le pusieron sus respectivos sellos.

(L. S.) *E. S. Zeballos.*
(L. S.) *Eliodoro Villazón.*

153.

DANEMARK, ETATS-UNIS D'AMÉRIQUE.

Echange de notes concernant la protection réciproque, en Chine, des marques de fabrique et de commerce; des 27 mai et 12 juin 1907.

Copie officielle.

Légation de Danemark.

Le 27 mai 1907.

Monsieur le Secrétaire d'Etat.

Me référant à la note, no. 671, que Votre Excellence a bien voulu adresser à la Légation le 25 mars dernier j'ai l'honneur, d'ordre de mon Gouvernement, de vous informer que les instructions nécessaires viennent d'être expédiées au Consul de Danemark à Shanghai, juge consulaire danois pour toute la Chine, à l'effet de l'autoriser à protéger les marques de fabrique et de commerce américaines, régulièrement déposées en Danemark, contre les infractions de ressortissants danois en Chine dans la même mesure que les marques danoises de la même nature.

La loi que le tribunal danois à Shanghai est appelé à appliquer dans l'espèce est la loi danoise du 11 avril 1890, modifiée par la loi du 19 décembre 1898, et les ordonnances du 28 Septembre 1894 et du 12 septembre 1902.

En exprimant l'attente de recevoir une note m'informant de l'envoi aux agents diplomatiques et consulaires des Etats-Unis dans l'Empire du Milieu des instructions nécessaires pour assurer la réciprocité en accordant la protection par les tribunaux consulaires des Etats-Unis en Chine de ressortissants danois contre les ressortissants américains ayant contrefait des marques de fabrique et de commerce danoises, régulièrement déposées aux Etats-Unis, je vous prie d'agréer, Monsieur le Secrétaire d'Etat, la nouvelle assurance de ma plus haute considération.

(sign.) *J. Clan.*

Son Excellence Mr. Elihu Root,
Secrétaire d'Etat.

Department of State. Washington June 12, 1907.

Sir,

I have the honor to acknowledge the receipt of your note of the 27 ultimo by which you inform me that in pursuance of the understanding reached by the correspondence between the Danish Legation and the Department of State on March 19 and 25, 1907, the necessary instructions have been sent to the Danish Consul at Shanghai (the Consular Headquarters for the whole of China) in order to authorise him to protect American trade-marks, duly deposited in Denmark, against violations by Danish subjects in China, to the same extent as Danish marks of the same nature are protected.

As a completion of the exchange of notes to give the said understanding effect, I have the honor to inform you that on the part of the United States the Minister of the United States at Peking has this day been instructed to inform the consular officers of the United States in China that hereafter trade-marks of Danish subjects, which have been duly registered in the United States, are to be protected against infringement by such persons as come under the jurisdiction of the United States Consular courts in China.

Accept, sir, the renewed assurances of my high consideration.

(sign.) *Elihu Root.*

Mr. J. Clan.
In charge of the Legation of Denmark.

154.

GRANDE-BRETAGNE, PORTUGAL.

Echange de notes concernant les frontières des possessions respectives dans l'Afrique orientale; du 3 juin 1907.

British and Foreign State Papers C (1911), p. 553.

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(1)

His Britannic Majesty's Legation, Lisbon,
June, 3, 1907.

Your Excellency,

In 1898 a Joint Commission was entrusted with the demarcation of the Anglo-Portuguese frontier in South East Africa from parallel 18° 30' of Southern Latitude to the junction of the Sabi and Lundi Rivers, in accordance with the arbitral award given by Signor Vigliani in January,

1897.*) The result of this demarcation was recorded in four *procès verbaux*, signed by the Commissioners on the 5th and 28th of June, and the 14th and 15th of December, 1898. The whole line was beaconed, but as it diverged in parts from that laid down in Signor Vigliani's award some of the beacons erected were stated in the *procès verbal* to be provisional only pending the approval of the two Governments.

There is also that portion of the Anglo-Portuguese frontier running southwards from the junction of the Sabi and Lundi Rivers to the Limpopo, which has not yet been definitively accepted; although the Government of His Most Faithful Majesty signified, by a note from the Minister for Foreign Affairs to His Majesty's Minister of the 19th July, 1904, their assent to the proposals made by His Majesty's Government in December, 1903.

I have now the honour to inform your Excellency that I have been instructed by His Majesty's Secretary of State for Foreign Affairs to propose that His Majesty's Government and the Government of His Most Faithful Majesty should agree to adopt as definitive the whole boundary both from parallel 18° 30' to the junction of the Sabi and Lundi Rivers as demarcated by the Anglo-Portuguese Commission and from the junction of the above-named rivers to the Limpopo as suggested in 1903.

The memorandum and maps which I have the honour to transmit, herewith, show in detail the whole course of the boundary.

This note, with the memorandum and maps annexed, and your Excellency's reply will constitute the formal agreement between the two Governments.

I have, &c.,
F. H. Villiers.

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(2)

[Translation.]

Ministry for Foreign Affairs, Lisbon,
June 3, 1907.

Sir,

I acknowledge the receipt of the note which you were good enough to address to me to-day the 3rd instant.

You state that in 1898 a Joint Commission was entrusted with the demarcation of the Anglo-Portuguese frontier in South-East Africa from parallel 18° 30' of Southern Latitude to the junction of the Sabi and Lundi Rivers, in accordance with the arbitral award given by Signor Vigliani in January, 1897. The result of this demarcation was recorded in four *procès verbaux*, signed by the Commissioners on the 5th and 28th of June, and the 14th and 15th of December, 1898. The whole line was beaconed, but as it diverged in parts from that laid down in Signor Vigliani's award some of the beacons erected were stated in the *procès verbaux* to be provisional only, pending the approval of the two Governments.

*) V. N. R. G. 2. s. XXVIII, p. 294.

You further state that the portion of the Anglo-Portuguese frontier running southwards from the junction of the Sabi and Lundi Rivers to the Limpopo has not yet been definitively accepted, although His Majesty's Government had signified by a note of the 19th of July, 1904, their assent to the proposals made by His Britannic Majesty's Government.

You propose, under instructions from Sir Edward Grey, that the two Governments should agree to adopt as definitive the whole boundary both from parallel 18° 30' to the junction of the Sabi and Lundi Rivers as demarcated by the Anglo-Portuguese Commission, and from the junction of the above-named rivers to the Limpopo as suggested in 1903.

In reply I have the honour to inform you that His Majesty's Government accept the proposal made by His Britannic Majesty's Government, and that therefore the present note and your note under reply will constitute the definitive approval of the said frontier line, as described in the Memorandum and maps which accompanied your note.

I avial, &c.,

Luciano Monteiro.

155.

GRANDE-BRETAGNE, PORTUGAL.

Arrangement concernant la frontière entre les possessions des deux pays au nord et au sud du Zambèse; réalisé par un Echange de notes des 21 octobre et 20 novembre 1911.

Treaty Series 1912, No. 16.

(1.)

Sir E. Grey to the Portuguese Minister.

Foreign Office, October 21, 1911.

Sir,

With reference to the correspondence which passed with the Portuguese Legation in 1910, and in particular to the Marquess of Soveral's note of the 22nd June last year, I have the honour to transmit to you herewith two memoranda describing the course of the Anglo-Portuguese boundary north and south of the Zambesi, respectively, together with two signed copies of a map of the boundary, in seven sheets, compiled by the Geographical Section of the General Staff.

I have the honour to state that His Majesty's Government accept the description of the boundary as laid down in the memoranda and map-

I request that, in conformity with the arrangement already arrived at, you will be good enough to inform me that the Portuguese Government also accept the boundary as thus laid down, and that you will sign and return to me one of the sets of the map which accompany the present note.

I have, &c.

E. Grey.

Annex 1.

Anglo-Portuguese Boundary.

North of the Zambesi.

The following is a description of the boundary as agreed between the British and Portuguese Commission in their *procès-verbaux*, signed on the 21st day of November, 1904:

Commencing at the confluence of the Rivers Loangwa and Zambesi, the frontier follows the centre of the main channel of the River Loangwa, passing to the west of the rocky island Niakatenga, situated in latitude 15° 29′ south, at the head of the Lupata gorge;

Thence it follows the main channel west of the sandy island Niazawe and east of the sandy islands Ngoza and Kapondoro, situated in 15° 4′ south latitude, to the point where the main channel is intersected by the 15th parallel south latitude in longitude 30° 13′ 16″ east of Greenwich; thence in a straight line to—

Beacon No. 1. A dry rubble pile of stones, with a cemented top, situated on the left bank of the River Loangwa, in latitude 14° 59′ 58″ south, and longitude 30° 13′ 23″ east;

thence in a straight line, bearing 25°, distance 0·2 mile, to—

Beacon No. 2. A masonry pyramid on a circular base situated on a bluff overlooking the river, bearing from Nyesi Hill 284° and from Utala Hill 198¾°;

thence in a straight line, bearing 74° 34′, distance 1·8 miles, to—

Beacon No. 3. A cement masonry pillar situated on the summit of a small conical hill, bearing from Nyesi Hill 305° and from Utala Hill 175°;

thence in a straight line, bearing 76° 35′, distance 9·4 miles, to—

Beacon No. 4. A dry rubble pile of stones, with a cemented top, situated on the summit of Chikongoro Hill;

thence in a straight line, bearing 62° 12′, distance 7·3 miles, to—

Beacon No. 5. A cement masonry pillar situated on the summit of Nyamiseje Hill;

thence in a straight line, bearing 68° 26′, distance 6·3 miles, to—

Beacon No. 6. A cement masonry pillar, situated on the summit of a hill 1 mile east of Ucha River, and bearing from Kanyamambo Hill 310½° and from Mwezi Hill 99½°;

thence in a straight line, bearing 67° 4′, distance 8·4 miles, to—

Beacon No. 7. A dry rubble pile of stones, with a cemented top, situated on the summit of Loriasoro Hill;

thence in a straight line, bearing 69° 53′, distance 8·2 miles, to—

Beacon No. 8. A cement masonry pillar situated on a very low hill, bearing from Mt. Usala 26°, Nyati Piri 116°, and Kanyamambo 35½°;

thence in a straight line, bearing 76° 56′, distance 10·8 miles, to—

Beacon No. 9. A cement masonry pillar on the highest (northern) summit of Kassekete Hill;

thence in a straight line, bearing 76° 18′, distance 8·5 miles, to—

Beacon No. 10. A cement masonry pillar on the highest (northern) summit of Fingue Hill, bearing from Mt. Chitusa 279° and from Luenga 217°;

thence in a straight line, bearing 71° 8′, distance 4·4 miles, to—

Beacon No. 11. A cement masonry pillar on the summit of the low rocky hill Iniawaro, bearing from Mt. Chitusa 9° and from Luenga 113°;

thence in a straight line, bearing 72° 11′, distance 9·2 miles, to—

Beacon No. 12. A cement masonry pillar on the summit of the remarkable conical rock Longwe;

thence in a straight line, bearing 80°, distance 4·7 miles, to—

Beacon No. 13. A cement masonry pillar on the summit of the low rock Kasuche;

thence in a straight line bearing 78° 29′, distance 5·8 miles, to—

Beacon No. 14. A cement masonry pillar on the low flat rocky ledge Chongoni, situated close to and south of the village of Mwanjawantu;

thence in a straight line bearing 72° 21′, distance 5·2 miles, to—

Beacon No. 15. A cement masonry pillar on the summit of the remarkable rock Chifisi;

thence in a straight line, bearing 60° 8′, distance 4·5 miles, to—

Beacon No. 16. A cement masonry pillar on the summit of the remarkable rock Sonzori;

thence in a straight line bearing 60° 36′, distance 9·4 miles, to—

Beacon No. 17. A cement masonry pillar on the highest point of Mt. M. Pinduka;

thence in a straight line bearing 78° 3′, distance 9·4 miles, to—

Beacon No. 18. A cement masonry pillar situated on the highest point of the low ridge Seza, bearing from Mt. M. Bewa 145½°;

thence in a straight line bearing 62° 19′, distance 10·2 miles, to—

Beacon No. 19. A cement masonry pillar on the top boulder of the highest (northern) summit of the rocky hill Mzunje;

thence in a straight line bearing 76° 26′, distance 7·4 miles, to—

Beacon No. 20. A cement masonry pillar situated on the summit of the southernmost of the group of three low hills Kalunga, bearing from Mt. Singalizia 129°;

thence in a straight line bearing 67° 24′, distance 4 miles, to—

Beacon No. 21. A dry rubble pile of stones, with a cemented top, situated on the summit of Mt. Tukakula;

thence in a straight line bearing 72° 1′, distance 9·6 miles, to beacon No. 23.

On this line is interpolated at 3·9 miles from No. 21 beacon—

Beacon No. 22. A cement masonry pillar situated on the southernmost spur of Mt. Longa, close to the left bank of the River Kapoche, following a straight line bearing 72°;

thence, distance 5·7 miles—

Beacon No. 23. A dry rubble pile of stones, with a cemented top, on the summit of Mt. Bambe;

thence the line continues in a straight line, bearing 78° 3′, distance 5·4 miles, to—

Beacon No. 24. A cement masonry pillar on the highest boulder of the southernmost of the two low hills Kampini;

thence in a straight line bearing 79° 31′, distance 8 miles, to beacon No. 26.

On this line is interpolated, at 1 mile distance from beacon No. 24—

Beacon No. 25. A cement masonry pillar on the west side of the new road leading from Fort Jameson to Tete, from which the line bearing 79° 31′ runs 7 miles to—

Beacon No. 26. A small cement masonry pyramid on a remarkable split boulder forming the summit of Mt. Barazia, a precipitous peak on the western side of the M. Bizi Hills;

thence the boundary passes in a straight line bearing 65° 7′, distance 9·7 miles, to—

Beacon No. 27. A cement masonry pillar on the southern lower summit of the ridge running south from Mangurro Hill bearing from Zonampeni Mountain, Portuguese trigonometrical station, 75° 29′ 20″; English trigonometrical station, 75° 21′ 03″;

thence in a straight line bearing 69° 13′, distance 7·2 miles, to—

Beacon No. 28. A dry rubble pile of stones, with a cemented top, on the summit of the southern of two peaks forming a spur running northwest from Zonampeni Mountain overlooking the valley of the Mwangazi River;

thence in a straight line bearing 69°, distance 1·3 miles, to—

Beacon No. 29. A cement masonry pillar situated on the north-east spur of Mt. Zonampeni, in the Viruli mountain range, in a depression between two eminences formed of granite boulders.

This beacon is on the mathematical frontier line as fixed by treaty.

Thence the boundary runs in a straight line bearing 70° 59′, distance 36 miles, to beacon No. 38, at the intersection of the 14th parallel south latitude with the Nyasa-Zambesi watershed.

On this line are interpolated eight beacons as follows:

at 4·8 miles distance from No. 29—

Beacon No. 30. A cement masonry pillar situated on the western extremity of a plateau overlooking the valley of the Vubwe River;

thence at 8·8 miles distance—

Beacon No. 31. A cement masonry pillar situated on the northern slope about 170 feet from the summit of Papi Hill, which is the westernmost of two twin hills named Manyani;

thence at 5·7 miles distance—

Beacon No. 32. A cement masonry pillar situated on the westernmost of three peaks connected by cols near the village of Misale, bearing from Chikungwe peak $131^1/_2{}^0$;

thence at 0·2 mile distance—

Beacon No. 33. A cement masonry pillar situated on the northern slope of the col between two peaks forming the eastern extremity of the group of three peaks above mentioned, bearing from Chikungwe Peak 136^0;

thence at 2·5 miles distance—

Beacon No. 34. A cement masonry pillar situated on the southern slope about 70 feet from the summit of Kalemba Hill;

thence at 1·3 miles distance—

Beacon No. 35. A cement masonry pillar situated on the western crest of the Misu Plateau, bearing from Chikungwe Peak 35^0;

thence at a distance of 1·9 miles—

Beacon No. 36. A cement masonry pillar situated on the eastern crest of the Misu Plateau, bearing from Chimimbe Hill $159^1/_2{}^0$;

thence at a distance of 8·3 miles—

Beacon No. 37. A dry rubble pile of stones, with a cemented top, situated on the southern slope of the small hill Kapirivzeo, distant about 60 feet from the summit;

thence at a distance of 4·5 miles—

Beacon No. 38. A cement masonry pillar situated on the Zambesi-Nyasa Watershed at the point where it is intersected by the 14th parallel south latitude, in longitude east 33^0 14′ 32″, approximately.

From this point the frontier follows the crest of the watershed in a south-easterly direction to the peak Chorasanu, at which point it joins the frontier previously demarcated by the Joint International Commission in 1899.

The bearings given are true bearings, measured from north by east.

Annex 2.

Anglo-Portuguese Boundary.

South of the Zambesi.

The following is a description of the boundary as agreed between the British and Portuguese Commission in their *procès-verbaux,* signed on the 24th day of October, 1905:

Commencing at the junction of the thalweg of the Loangwa with the thalweg of the Zambesi, the frontier follows a straight line to—

Beacon No. 1. A cement masonry pyramid on the right bank of the River Zambesi in latitude 15^0 37′ 27″ south and longitude 30^0 25′ 20·3″ east of Greenwich (the geodetic beacon on Mount Mansanswa being assumed to be in longitude 30^0 28′ 13·5″ east);

thence it runs in a straight line bearing due south, distance 6,335 feet (1,931 metres) to—

Beacon No. 2. A cemented pile of stones on the crest of the ridge overlooking the river;

thence in a straight line bearing due south, distance 43,320 feet (13,204 metres) to—

Beacon No. 3. A cemented pile of stones on a ridge visible from beacon No. 2, bearing from the south shoulder of Kapsuku Mountain 108^0;

thence in a straight line bearing due south, distance 26,034 feet (7,935 metres), to—

Beacon No. 4. A cemented pile of stones situated on the south side of the Feira Salisbury road;

thence in a straight line bearing due south, distance 55,240 feet (16,227 metres) to—

Beacon No. 5. A pile of stones on a ridge near Misama village;

thence in a straight line bearing due south, distance 7,300 feet (2,225 metres) to—

Beacon No. 6. A cement masonry pyramid surmounted by an iron disc near the junction of the small stream Inyarumanu with the Angwa River; this beacon is on the 16th parallel, as found by local observation;

thence the boundary runs in a straight line bearing due south, distance 1,120 feet (342 metres), to the centre of the channel of the Inyarumanu stream, where a small dry stone, beacon No. 7, is placed on the left bank;

thence the line follows the centre of the channel of the Inyarumanu stream to its junction with the centre of the main channel of the River Angwa; and thence the thalweg of the River Angwa for a distance of about 1 mile to a point due west of—

Beacon No. 8. A cemented pile of stones on the right bank of the Angwa River in latitude 16^0 south;

thence in a straight line, passing through that beacon, distance 24,355 feet (7,423 metres) to—

Beacon No. 9. A cemented stone pillar on the west side of the Feira-Salisbury road in latitude 16^0 south;

thence in a straight line, distance 12,150 feet (3,703 metres), to—

Beacon No. 10. A pile of stones, with a cemented top, situated on the right bank of the Panyame (or Hunyani) River in latitude 16^0;

thence in a straight line, distance 3,900 feet (1,189 metres), to—

Beacon No. 11. A cemented pile of stones in latitude 16° south, on the west side of Mavenga road, leading to the south-west;

thence in a straight line, distance 11,364 feet (3,464 metres), to—

Beacon No. 12. A pile of stones, with a cemented top, situated on the ridge overlooking the Panyame Valley in latitude 16° south;

thence in a straight line, distance 2,485 feet (757 metres), to—

Beacon No. 13. A cemented stone pillar on the eastern spur of this same ridge;

thence in a straight line, distance 36,561 feet (11,143 metres), to—

Beacon No. 14. A pile of earth, revetted with sticks and cemented on top, situated on the north side of the Mavenga-Sundi road near a group of Baobab trees in latidude 16° south;

thence in a straight line, distance 37,107 feet (11,310 metres), to—

Beacon No. 15. Similar to No. 14, on the summit of a ridge near Sundis village (now abandoned), in latitude 16° south;

thence in a straight line, distance 23,655 feet (7,210 metres), to—

Beacon No. 16. A cemented pile of stones situated on a low rise half a mile north of the Karemwe River, in latitude 16° south;

thence in a straight line, distance 8,284 feet (2,525 metres), to—

Beacon No. 17. A cemented pile of stones situated on the left bank of the Karemwe River in latitude 16° south.

From beacon No. 17 the frontier follows the parallel for a distance of 50 feet to the centre of the bed of the Karemwe River; thence follows the thalweg of the Karemwe River to its junction with the thalweg of the Kazi River; thence follows the thalweg of the Kazi River to its junction with the thalweg of the Msengezi River; thence follows the thalweg of the Msengezi River for a distance of 7,800 feet to a point where it is intersected by the production of the line between beacons Nos. 19 and 18; thence follows that line to—

Beacon No. 18. A cement masonry pillar situated on the right bank of the Msengezi River in latitude south 15° 59' 51" (astronomical) and longitude east 31° 6' 14";

thence in a straight line bearing 73° 10', distance 11,400 feet (3,470 metres), the line passes to *beacon No. 19*, a cement masonry pillar situated on the left bank of the Mkumvura River in latitude 15° 59' 18" (astronomical) and longitude east 31° 8' 6";

thence in production of this line, a distance of about 2,750 feet (840 metres), to the Mkumvura River; thence the frontier follows the thalweg of the Mkumvura River to a point where it is intersected by the production of the line between beacons Nos. 21 and 20; thence following that line, a distance of 600 feet (184 metres), to—

Beacon No. 20. A cemented pile of stones situated on the right bank of the Mkumvura River, about 1 mile below the village of Chigango, in

latitude south 16° 24′ 28″ and longitude east 31° 54′ 50′ (referred to Tete);

thence in a straight line bearing 105° 54′, distance 45,065 feet (13,735 metres), to—

Beacon No. 21. A cemented pile of stones on the summit of Mount Gungwa;

thence in a straight line bearing 88° 29′, distance 34,942 feet (10,650 metres), to—

Beacon No. 22. A stone pyramid, cemented on top, situated on the summit of Mount Ganganyama;

thence in a straight line bearing 87° 18½′, distance 48,030 feet (14,640 metres), to—

Beacon No. 23. A stone pyramid, cemented on top, situated on the summit of Kahire Hill;

thence in a straight line bearing 105° 32′, distance 46,030 feet (14,030 metres), to—

Beacon No. 24. A stone pyramid, cemented on top, situated on the summit of Zizingwe Hill;

thence in a straight line bearing 111° 23′, distance 64,160 feet (19,555 metres), to—

Beacon No. 25. A stone pyramid, cemented on top, situated on the summit of Chitanga Ridge (or Chiwazi);

thence in a straight line bearing 116° 16′, distance 55,120 feet (16,800 metres), to—

Beacon No. 26. A stone pyramid, cemented on top, inscribed „Txera,“ situated on the summit of Mount Chera;

thence in a straight line bearing 187° 2′, distance 28,840 feet (8,790 metres) to—

Beacon No. 27. A small stone cemented pyramid on the summit boulder forming the northern and highest peak of Mount Kawpi, the highest range of the Rukori Mountains;

thence in a straight line bearing 138° 12′, distance 2,114 feet (644 metres) to—

Beacon No. 28. A stone cemented pyramid situated on the summit of the southernmost of the three highest peaks of Mount Kawpi, overlooking the Mazoe Gorge;

thence in a straight line bearing 113° 45′, distance 20,210 feet (6,160 metres), to—

Beacon No. 29. A large stone masonry pyramid built on a rock on the left bank of the Mazoe River, just above the confluence of the Nyangombe Stream, in latitude south 16° 42′ 14″ and longitude east 32° 45′ 33½″ (referred to Tete);

thence due south to the Mazoe River, distant 330 feet (100 metres);

thence the frontier follows the thalweg of the Mazoe River in

an easterly direction to the point of intersection of the thalweg and a straight line joining Mount Nyakala and the Baobab beacon; thence along this straight line to the Baobab beacon.

The bearings given are true bearings, measured from north by east.

(2.)

The Portuguese Minister to Sir E. Grey.

Légation de Portugal, Londres,
le 20 novembre, 1911.

M. le Ministre,

J'ai l'honneur d'accuser réception de la note que votre Excellence a bien voulu m'adresser le 21 octobre dernier, dans laquelle vous me faites parvenir deux mémoranda indiquant la position des bornes érigées le long du tracé de frontière entre les possessions portugaises et anglaises au nord et au sud du Zambèse, respectivement, avec deux cartes en sept feuilles, sur lesquelles la frontière ainsi déterminée est inscrite.

J'ai l'honneur de faire connaître à votre Excellence que mon Gouvernement accepte la ligne précitée comme la frontière entre les possessions portugaises et anglaises dans cette région, et je m'empresse de remettre ci-inclus une série des cartes respectives dûment signées.

Je saisis, &c.

M. Teixeira Gomes.

156.

GRANDE-BRETAGNE, PORTUGAL.

Arrangement concernant la ligne de la frontière entre les possessions respectives dans le cours des fleuves Ruo and Chire; réalisé par un Echange de notes des 6 et 30 novembre 1911.

Treaty Series 1912. No. 10.

(1.)

His Britannic Majesty's Minister at Lisbon to the Portuguese Minister for Foreign Affairs.

His Britannic Majesty's Legation, Lisbon,
November 6, 1911.

Your Excellency,

In continuation of the correspondence which took place in June and September last between his Excellency Senhor Azevedo and my predecessor,

Sir Francis Villiers, respecting a settlement of the boundary between the respective possessions of the two Governments on the Ruo and Shire Rivers, I have the honour to propose to your Excellency that this question should be settled by an agreement in the following terms:

His Britannic Majesty's Government and the Government of the Portuguese Republic having resolved to demarcate their territories in East Africa along the Rivers Ruo and Shire between the points on those rivers mentioned in the Treaty of the 11th June, 1891,*) it has been decided by common accord between the two Governments to accept the line of the thalweg of those rivers as the frontier-line, and the islands situated between the left bank of the said rivers and the lines of their thalweg to belong to Portugal, and those situated between those lines of thalweg and the right bank of the said Rivers Ruo and Shire to belong to Great Britain, these lines being determined according to the condition of the two rivers in 1908. In this manner the islands belonging to Portugal will be:

Sankalani, and the adjacent islands, Masekodoso, which is downstream from the village of Mlolo, those at the mouth of the Ruo, Ngoma, Msamvu No. 1, Dumba, Chakao, Nyamula, Kalumbe, Kalikovani, and Chezuka, as shown on the attached map of the Ruo and Shire Rivers;

And to Great Britain:

Malô, Nyantambwe, Nyapembere, Nyafunzi, Msamvu No. 2, Tengana, Panga, Temba, and the two islands of Kutamo, as shown on the attached map of the Ruo and Shire Rivers.

The Governments of Great Britain and Portugal bind themselves to respect the frontier-line laid down by this Agreement and to recognise as Portuguese and British territory respectively the islands above indicated, in conformity with the provisions of the Treaty of the 11th June, 1891.

Should your Excellency, on behalf of the Government of Portugal, be prepared to accept the Agreement in the above terms, I should feel much obliged by your addressing me a note to that effect. The notes thus exchanged would be deemed to record the Agreement.

I avail myself, &c.

Arthur H. Hardinge.

His Excellency Senhor Augusto de Vasconcellos,
Minister for Foreign Affairs.

*) V. N. R. G. 2. s. XVIII, p. 185.

(2.)

The Portuguese Minister for Foreign Affairs to His Britannic Majesty's Minister at Lisbon.

Ministerio dos Negocios Estrangeiros, Lisbôa,
30 de Novembro de 1911.

Senhor Ministro,

Tenho a honra de accusar a recepção da nota que vossa Excellencia se serviu dirigir-me em 6 do corrente, em continuação da correspondencia anteriormente trocada entre este Ministerio e a Legação a digno cargo de vossa Excellencia com respeito á linha de fronteira luso-britannica nos rios Rua e Chire.

Propôe vossa Excellencia que o accordo a que chegaram os Governos Portuguez e Britannico sobre esta questão fique definido nos termos seguintes:

Havendo o Governo da Republica Portugueza e o Governo de Sua Magestade Britannica resolvido fazer a demarcação dos seus territorios na Africa Oriental, ao longo dos rios Ruo e Chire, entre os pontos d'estes rios estipulados no Tratado de 11 de Junho de 1891; foi decidido pelos dois Governos interessados, de commun accordo, acceitar a linha dos thalwegs d'aquelles rios como fronteira, ficando pertencentes a Portugal as ilhas que se encontram entre a margem esquerda dos mesmos rios e seus thalwegs, e á Inglaterra as que estão entre esses thalwegs e a margem direita dos alludidos rios Ruo e Chire, sendo estes limites referidos ao estado dos dois rios em 1908. Por esta maneira ficam pertencendo:

A Portugal as ilhas de Sanculani e ilhotas adjacentes, de Masecodoso a jusante da povoação de Mlolo, da foz do Ruo, de Ngoma, de Msambua No. 1, de Dumba, de Chicau, de Nhamula, de Calumbi, de Calicuvani, e de Chisuka, como está indicado no mappa annexo dos rios Ruo e Chire.

E á Inglaterra as ilhas de Malô, de Nhamdambua, de Nhapember, de Nhafuzi, de Msambua No. 2, de Tengani, de Panga, de Tembo e as duas ilhas du Cutâmo, como está indicado no mappa annexo dos rios Ruo e Chire.

Tanto o Governo de Portugal como o da Gran-Bretanha se obrigam a respeitar a linha limitrophe que fica estipulada por este accordo e a reconhecer como territorios portuguezes e inglezes as ilhas que acima, respectivamente, ficam indicadas, de conformidade com o que resulta do Tratado de 11 de Junho de 1891.

Tenho a satisfação de notificar a vossa Excellencia o assentimento do Governo da Republica a este accordo que assim fica definitivamente consignado na presente nota e n'aquella de vossa Excellencia a que respondo.

Aproveito, &c.

Augusto de Vasconcellos.

Sir Arthur H. Hardinge,
&c. &c. &c.

(Translation.)

Ministry for Foreign Affairs, Lisbon,
November 30, 1911.

M. le Ministre,

I have the honour to acknowledge the receipt of the note which your Excellency was good enough to address to me on the 6th instant, in continuation of previous correspondence between this Ministry and the Legation under your charge, respecting the Anglo-Portuguese frontier-line on the Ruo and Shire Rivers.

Your Excellency proposes that the question should be settled by an Agreement between the Portuguese and British Governments in the following terms:

The Government of the Portuguese Republic and His Britannic Majesty's Government having resolved to demarcate their territories in East Africa, along the Rivers Ruo and Shire between the points on those rivers mentioned in the Treaty of the 11th June, 1891, it has been decided by common accord between the two Governments to accept the line of the thalweg of those rivers as the frontier-line, the islands situated between the left bank of the said rivers and the lines of their thalweg to belong to Portugal, and those situated between those lines of thalweg and the right bank of the said Rivers Ruo and Shire to belong to Great Britain, these lines being determined according to the condition of the two rivers in 1908. In this manner the islands belonging to Portugal will be:

Sankalani and the adjacent islands, Masekodoso, which is downstream from the village of Mlolo, those at the mouth of the Ruo, Ngoma, Msamvu No. 1, Dumba, Chakao, Nyamula, Kalumbe, Kalikovani, and Chezuka, as shown on the attached map of the Ruo and Shire Rivers.

And to Great Britain:

The islands of Malô, Nyantambwe, Nyapembere, Nyafunzi, Msamvu No. 2, Tengana, Panga, Temba, and the two islands of Kutamo, as shown on the attached map of the Ruo and Shire Rivers.

The Governments of Portugal and Great Britain bind themselves to respect the frontier-line laid down by this Agreement, and to recognise as Portuguese and British territory respectively the islands above indicated, in conformity with the provisions of the Treaty of the 11th June, 1891.

I have much pleasure in notifying to your Excellency the acceptance by the Government of the Republic of this Agreement, which is thus definitively recorded in the present note and in that from your Excellency under reply.

I avail, &c.

Augusto de Vasconcellos.

Sir Arthur H. Hardinge,
&c. &c. &c.

157.

FRANCE, GRANDE-BRETAGNE.

Echange de notes concernant les autorisations de dragages dans la rivière Tanoë; des 16 et 25 juin 1907.

British and Foreign State Papers C (1911), p. 498.

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(1)

Ambassade de France, Londres,
le 16 juin, 1907.

M. le Secrétaire d'Etat,

Je suis chargé de faire savoir à votre Excellence que le Gouvernement de la République est d'accord avec le Gouvernement Britannique pour compléter l'Arrangement Franco-Anglais du 10 août, 1889,*) en décidant que les autorisations de dragages dans la rivière „Tanoe" devront être soumises à l'agrément des deux Gouvernements locaux de la Côte d'Ivoire Française et de la Côte d'Or Anglaise.

Si votre Excellence veut bien m'accuser réception de la présente communication en me confirmant son adhésion à cette disposition additionnelle à la Convention du 10 août, 1889, cet échange de notes constatera l'entente entre les deux Gouvernements.

Veuillez agréer, &c.,
Paul Cambon.

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(2)

Foreign Office, June 25, 1907.

Your Excellency,

I have the honour to acknowledge the receipt of your Note of the 16th instant, in which your Excellency informs me that the French Government assent to an addition being made to the Anglo-French Convention of August 10, 1889, providing that licences to dredge in the neutral waters of the Tanoe River should be submitted to the common consent of the Governments of the Ivory Coast and the Gold Coast.

I have the honour to inform your Excellency that His Majesty's Government accept the addition of this provision and that they agree to consider the present exchange of notes as giving effect to it.

I have, &c.,
E. Grey.

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*) V. N. R. G. 2. s. XVI, p. 738, 853.

158.

SUÈDE, RUSSIE.

Notes concernant l'approbation du Protocole du 28/15 août 1901 au sujet de la frontière; des $\frac{\text{3 juillet}}{\text{20 juin}}$ et 30/17 octobre 1907.

Sandgren, Recueil des Traités de la Suède (1910), p. 999.

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a.

St. Pétersbourg, le 3 juillet/20 juin 1907.

Monsieur le Ministre,

En me référant à la lettre du Ministère Impérial des Affaires Etrangères, en date du 12 janvier 1905/30 décembre 1904, j'ai l'honneur, d'ordre de mon Gouvernement, de porter à la connaissance de Votre Excellence que le Gouvernement du Roi a décidé d'approuver un protocole, signé le 28/15 août 1901, à Lyngseidet, par les commissaires suédois et russe et concernant l'érection de nouvelles bornes-frontière sur le ruisseau de Radjajok, entre les lacs de Kolta-javre et de Kuokima-javre ainsi que deux plans joints à ce protocole, dressés le même jour, à l'échelle de 1:8400 et de 1:840, et signé par les dits commissaires, comme indiquant la vraie frontière suédo-russe entre les deux lacs susmentionnés.

En même temps j'ai l'honneur de m'adresser à l'obligeant intermédiaire de Votre Excellence afin de constater si ce protocole et ces deux plans sont également reconnus par le Gouvernement Impérial comme indiquant la vraie frontière suédo-russe.

Je saisis cette occasion, Monsieur le Ministre, de renouveler à Votre Excellence les assurances de ma très haute considération.

Edv. Brändström.

S. Exc. Monsieur **Iswolsky**,
Ministre des Affaires Etrangères.

b.

St. Pétersbourg, le 30/17 octobre 1907.

Monsieur le Ministre,

Par la note, en date du 20 juin a. c. Vous avez bien voulu porter à la connaissance du Ministère Impérial des Affaires Etrangères que le Gouvernement du Roi a décidé d'approuver le protocole, signé le 15/28 Août 1901 à Lyngseidet par les commissaires suédois et russe et concernant l'érection de nouvelles bornes frontière sur le ruisseau de Radjajok, entre les lacs de Kolta-javre et Kuokima-javre, ainsi que deux plans joints à ce protocole, dressés le même jour à l'échelle de 1:8400 et de 1:840

et signés par les dits commissaires, comme indiquant la vraie frontière suédo-russe entre les deux lacs susmentionnés.

En même temps Vous avez exprimé le désir de connaître si le protocole et ces deux plans sont également reconnus par le Gouvernement Impérial comme indiquant la vraie frontière suédo-russe.

En réponse à la note précitée j'ai l'honneur de porter aujourd'hui à Votre connaissance que mon Gouvernement, de son côté, approuve le protocole signé à Lyngseidet le 15/28 Août 1901 ainsi que les deux plans en questions à l'échelle 1:8400 et de 1:840.

Recevez, Monsieur le Ministre, l'assurance de ma considération la plus distinguée.

Goubastoff.

Monsieur Brändström,
etc. etc. etc.

Protocole concernant l'érection de nouvelles bornes-frontière sur le ruisseau de Radjajok entre les lacs de Koltajavre et de Kuokimajavre.

Les soussignés commissaires de la Suède et de la Russie savoir:

— — — — — — — — — — — — — — —

conformément à la mission qui leur a été confiée par leurs Gouvernements respectifs, se sont réunis le 13 août/31 juillet 1901 en vue de l'érection de nouvelles bornes-frontière, entre le Royaume de Suède et l'Empire de Russie (dans les limites du Grand Duché de Finlande), sur le ruisseau de Radjajok unissant les deux lacs de Koltajavre et de Kuokimajavre et ont échangé leurs pleins-pouvoirs trouvés en bonne et due forme.

Selon la teneur du traité de paix conclu à Fredricshamn le 17/5 septembre 1809 la ligne de démarcation entre le Royaume de Suède et l'Empire de Russie doit, à partir du territoire du Royaume de Norvège, suivre le ruisseau de Radjajok du point où il prend source dans le lac de Koltajaure, mais ce ruisseau d'après les renseignements de nouvelle date, étant presque entièrement desséché — accident qui pourrait faire interpréter à tort la description actuelle de la frontière suédo-russe en la supposant le long d'un autre cours d'eau parallèle, qui réunit également les lacs de Koltajavre et de Kuokimajavre mais se trouve au nord-est de la colonne norvégienne-russe No. 294 — les deux Hautes Cours de la Suède et de la Russie ont convenu de faire ériger au bord du dit ruisseau Radjajok des nouveaux signes de démarcation.

Arrivés à l'emplacement des travaux projetés les commissaires procédèrent premièrement à l'inspection de l'état actuel du ruisseau de Radjajok. Il a été constaté à cette occasion que le dit cours d'eau, quoique désséché jusqu'à un certain point, ne peut encore à l'époque actuelle mettre en doute la direction de la ligne-frontière, vu que le courant principal est distinctement visible et qu'il ne peut y avoir aucune difficulté à déterminer la direction du chenal dans ses moindres courbes.

Constatation faite de la direction de la frontière, les commissaires procédèrent conformément à la décision de leurs Gouvernements respectifs à la déterminaison de l'emplacement de la borne frontière principale, projetée à l'embouchure du ruisseau de Radjajok dans le lac de Kuokimajavre. L'examen de cette embouchure détermina la commission à choisir pour base de la dite colonne une grande pierre monolithe, à trois mètres environ de l'embouchure, formant îlot au milieu du chenal du ruisseau, vu que la rive septentrionale du Radjajok ne présentait pas toutes les garanties désirables pour la stabilité de la colonne.

Ce point déterminé la commission jugea nécessaire de marquer par une autre colonne les sources du ruisseau, vu que ses bords, marécageux à cet endroit, sont enclins à s'effacer. La base en a été déterminée sur une petite pointe rocheuse de la rive suédoise du Radjajok à cinq mètres environ de l'extrémité méridionale du lac de Koltajavre.

Entre ces deux colonnes la commission a trouvé utile d'ériger une troisième, choisissant pour son emplacement une pointe du rivage russe, entre un élargissement en forme de petit lac de la partie septentrionale du Radjajok et une delta de sa partie méridionale. Le centre de la base de cette dernière colonne s'est trouvé en ligne droite à soixante sept mètres de la borne d'amont à quatre-vingt-deux de celle de l'embouchure.

Les bases ainsi déterminées la commission y fit construire trois colonnes en pierres, d'un mètre de hauteur sur autant de diamètre environ, aux soumets cimentés, surmontées de pierres taillées parallèles au courant principal du Radjajok.

La colonne située aux sources du ruisseau porte sur sa pierre culminante les inscriptions: du côté suédois „O. II 1901", du côté russe „N. II 1901", et le „No. 1" sur les deux faces, vu que la numération des nouvelles bornes-frontière devait commencer du lac Koltajavre.

Les inscriptions des pierres culminantes des deux autres colonnes sont identiques à celle de la première à l'exception du numéro qui est: pour la colonne médiane „1 a" pour celle de l'embouchure „1 b".

Ces travaux terminés la commission fit déblayer autant que possible le chenal du Radjajok, particulièrement près de la colonne No. 1 et dans la delta de la partie méridionale du ruisseau.

En même temps le topographe de la commission a procédé au dressage d'un plan détaillé du ruisseau de Radjajok avec les nouvelles colonnes aussi bien que de ses environs à l'échelle de 1:840 avec indication de la frontière suédo-russe éclaircie par les travaux des commissaires.

Ci-joints:

1. Plan du ruisseau de Radjajok et ses environs après l'exécution des travaux de la commission mixte de 1901. Echelle 1:840.

2. Plan des environs des colonnes de Koltajavre et de Radjajok. Echelle 1:8400.

En foi de quoi les commissaires ont fait de part et d'autre un exemplaire de ce protocole et des dits plans d'ensemble tous semblables, revêtus de leurs signatures et y ont apposés leurs sceaux.

Fait à Lyngseidet le 28/15 août l'an de grâce Mil-neuf-cents-un.

Commissaire Royal Suédois. *E. Melander.*

Commissaire Impérial Russe. *E. Popoff.*

159.

PAYS-BAS.

Loi concernant la nationalité; du 8 juillet 1907.

Staatsblad van het Koninkrijk der Nederlanden. 1907. No. 177.

Wet van den 8sten Juli 1907, tot wijziging der wet van den 12den December 1892 (Staatsblad n°. 268) op het Nederlanderschap en het ingezetenschap.

Wij Wilhelmina, bij de gratie Gods, Koningin der Nederlanden, Prinses van Oranje-Nassau, enz., enz., enz.

Allen, die deze zullen zien of hooren lezen, saluut! doen te weten:

Alzoo Wij in overweging genomen hebben, dat het wenschelijk is de wet van 12 Dezember 1892 (*Staatsblad* n°. 268)*) op het Nederlanderschap en het ingezetenschap te wijzigen, ten einde hen, die het Nederlanderschap verloren hebben krachtens artikel 7, 5°., dier wet, in de gelegenheid te stellen het Nederlanderschap door naturalisatie terug te bekomen zonder betaling van het voor naturalisatie verschuldigd bedrag;

Zoo is het, dat Wij, den Raad van State gehoord, en met gemeen overleg der Staten-Generaal, hebben goedgevonden en verstaan, gelijk Wij goedvinden en verstaan bij deze:

Eenig artikel.

Tusschen de artikelen 3 en 4 der wet van 12 December 1892 (*Staatsblad* n°. 268), op het Nederlanderschap en het ingezetenschap, wordt een nieuw artikel 3*bis* ingevoegd, luidende als volgt:

„De in het voorgaand artikel genoemde som is niet verschuldigd voor de naturalisatie van dengene, die het Nederlanderschap krachtens artikel 7, 5°., verloren heeft. De verzoeker kan in dat geval volstaan met de overlegging bij het verzoek om naturalisatie van het bewijs, dat hij den staat van Nederlander heeft bezeten.

De bepaling van het eerste lid is niet van toepassing op hem, die reeds eenmaal krachtens die bepaling kosteloos is genaturaliseerd, noch

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*) V. N. R. G. 2. s. XVIII, p. 776; XIX, p. 598.

op hem, die na het verlies van het Nederlanderschap eenige daad heeft verricht, waardoor hij, Nederlander zijnde, het Nederlanderschap zoude hebben verloren."

Lasten en bevelen, dat deze in het *Staatsblad* zal worden geplaatst, en dat alle Ministerieele Departementen, Autoriteiten, Colleges en Amtbenaren, wie zulks aangaat, aan de nauwkeurige uitvoering de hand zullen houden.

Gegeven op het Loo, den 8sten Juli 1907.

Wilhelmina.

De Minister van Justitie,
E. E. van Raalte.

De Minister van Binnenlandsche Zaken,
P. Rink.

Uitgegeven den negentienden Juli 1907.

De Minister van Justitie,
E. E. van Raalte.

160.

PAYS-BAS.

Lois concernant la nationalité de la population des Indes orientales néerlandaises; du 10 février 1910.*)

Staatsblad van het Koninkrijk der Nederlanden 1910. No. 55, 56. — Parliamentary Papers. Miscellaneous No. 2 (1910). Cd. 5024.

Wet van den 10den Februari 1910, houdende regeling van het Nederlandsche onderdaanschap van de bevolking van Nederlandsch-Indië.

Wij Wilhelmina, bij de gratie Gods, Koningin der Nederlanden, Prinses van Oranje-Nassau, enz., enz., enz.

Allen, die deze zullen zien of hooren lezen, saluut! doen te weten:

Alzoo Wij in overweging genommen hebben, dat het wenschelijk is de kenmerken van het Nederlandsche onderdaanschap van de bevolking van *Nederlandsch-Indië* vast to stellen;

Zoo is het, dat Wij, den Raad van State gehoord, en met gemeen overleg der Staten-Generaal, hebben goedgevonden en verstaan, gelijk Wij goedvinden en verstaan bij deze:

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*) Comp. les Lois du 8 juillet 1907, ci-dessus No. 159, et du 15 juillet 1910, ci-dessous No. 161.

Artikel 1.

Ook wanneer zij geen Nederlanders zijn volgens de wet op het Nederlanderschap en het ingezetenschap zijn Nederlandsche onderdanen:

1⁰. zij, die in *Nederlandsch-Indië* zijn geboren uit ouders aldaar gevestigd, of is de vader niet bekend, uit eene aldaar gevestigde moeder;

2⁰. de in *Nederlandsch-Indië* geborenen, wier ouders niet bekend zijn;

3⁰. de echtgenoote of niet hertrouwde weduwe van een onderdaan als bedoeld onder 1⁰ of 2⁰;

4⁰. de buiten *Nederlandsch-Indië* geboren ongehuwde kinderen van een onderdaan als bedoeld in dit artikel, zoolang die nog geen achttien jaar oud zijn;

5⁰. de buiten *Nederlandsch-Indië* uit ouders, die onderdanen zijn volgens dit artikel, geboren kinderen, wanneer zij na hun huwelijk of na het bereiken van hun achttiende jaar in het Koninkrijk gevestigd zijn of zich aldaar vestigen, benevens hunne vrouw en hunne ongehuwde kinderen, die nog geen achttien jaar oud zijn, indien zij zich mede in het Koninkrijk vestigen.

Artikel 2.

Het in artikel 1 bedoelde Nederlandsche onderdaanschap wordt verloren:

1⁰. door naturalisatie in een vreemd land. Dit verlies strekt zich uit tot de met den genaturaliseerde gehuwde vrouw en zijne kinderen, die nog geen achttien jaar oud zijn;

2⁰. door te huwen met een man, die niet valt in de termen van artikel 1 onder 1⁰, 2⁰ of 5⁰;

3⁰. door zonder verlof van den Gouverneur-Generaal van *Nederlandsch-Indië* zich te begeven in vreemden krijgs- of Staatsdienst;

4⁰. door, in geval van verblijf in een vreemd land, na te laten zich binnen drie maanden na aankomst aan te geven bij een Nederlandschen consulairen ambtenaar in dat land en door bij voortgezet verblijf na te laten die aangifte binnen de eerste drie maanden van elk kalenderjaar te herhalen.

De aangifte door den man of vader voor zijne vrouw of kinderen en door de weduwe voor hare kinderen geldt voor eigen aangifte van dezen.

Wie volgens het onder 4⁰ bepaalde het Nederlandsche onderdaanschap heeft verloren en daarna niet in omstandigheden is komen te verkeeren als bedoeld onder 1⁰, 2⁰ of 3⁰, herkrijgt het door vestiging in *Nederlandsch-Indië*.

Artikel 3.

Deze wet is ook verbindend voor de koloniën en bezittingen in andere werelddeelen.

Lasten en bevelen, dat deze in het *Staatsblad* zal worden geplaatst, en dat alle Ministerieele Departementen, Autoriteiten, Colleges en Ambte-

naren, wie zulks aangaat, aan de nauwkeurige uitvoering de hand zullen houden.

Gegeven te 's Gravenhage, den 10den Februari 1910.

Wilhelmina.

De Minister van Koloniën,
de Waal Malefijt.

De Minister van Buitenlandsche Zaken,
R. De Marees van Swinderen.

De Minister van Justitie,
Nelissen.

Uitgegeven den *eersten* Maart 1910.

De Minister van Binnenlandsche Zaken,
tijdelijk belast met het beheer van
het Departement van Justitie,
Heemskerk.

Wet van den 10den Februari 1910, houdende wijziging van wetten in verband met het Nederlandsche onderdaanschap van de bevolking van Nederlandsch-Indië.

Wij Wilhelmina, bij de gratie Gods, Koningin der Nederlanden, Prinses van Oranje-Nassau, enz., enz., enz.

Allen, die deze zullen zien of hooren lezen, saluut! doen te weten:

Alzoo Wij in overweging genomen hebben, dat het noodzakelijk is eenige wetsbepalingen in beter verband te brengen met het Nederlandsche onderdaanschap van de bevolking van *Nederlandsch-Indië;*

Zoo is het, dat Wij, den Raad van State gehoord, en met gemeen overleg der Staten-Generaal, hebben goedgevonden en verstaan, gelijk Wij goedvinden en verstaan bij deze:

Artikel 1.

In artikel 992 van het Burgerlijk Wetboek en in artikel 585, 10⁰ van het Wetboek van Burgerlijke Regtsvordering wordt respectievelijk in plaats van „Nederlander" en „Nederlanders" gelezen „Nederlandsch onderdaan" en „Nederlandsche onderdanen" en in de artikelen 127 en 768 van het Wetboek van Burgerlijke Regtsvordering, „Nederlandschen onderdaan" in plaats van „Nederlander".

Artikel 2.

In artikel 1 der wet van 29 September 1815 *(Staatsblad* n⁰ 47), houdende instelling van de Orde van den Nederlandschen Leeuw, wordt in plaats van „alle Nederlanders" gelezen: „Onze onderdanen".

Artikel 3.

In artikel 20 der wet van 13 Augustus 1849 (*Staatsblad* n⁰. 39), tot regeling der toelating en uitzetting van vreemdelingen, wordt in plaats van „Nederlanders" gelezen: „Nederlandsche onderdanen".

Artikel 4.

In de artikelen 6 n⁰. 2, 9, 12, eerste lid, 17, 22, 24, 29, tweede lid, 33, 34, eerste lid, 42, eerste lid, 43, eerste lid, 45, eerste lid, 64, eerste lid, 65, eerste lid, 66, 83, 93, eerste lid, en 106, tweede lid, der wet van 25 Juli 1871 (*Staatsblad* n⁰. 91), houdende regeling van de bevoegdheid der consulaire ambtenaren tot het opmaken van burgerlijke akten, en van de consulaire rechtsmacht, zooals die wet laatstelijk is gewijzigd en aangevuld bij de wet van 7 Juni 1905 (*Staatsblad* n⁰. 203), wordt in plaats van „Nederlanders" gelezen: „Nederlandsche onderdanen" en in artikel 90, eerste lid, dier wet in plaats van „Nederlander", „Nederlandsch onderdaan".

Artikel 5.

Het bij de slotbepaling der wet van 12 December 1892 (*Staatsblad* n⁰. 268) gewijzigde artikel 22 der wet van 6 April 1875 (*Staatsblad* n⁰. 66), tot regeling der algemeene voorwaarden, op welke, ten aanzien van de uitlevering van vreemdelingen, verdragen met vreemde Mogendheden kunnen worden gesloten, wordt gelezen:

„Als Nederlanders beschouwt deze wet hen, die het zijn volgens de Wet op het Nederlanderschap en het Ingezetenschap, alsmede hen die uit anderen hoofde Nederlandsche onderdanen zijn."

Artikel 6.

In artikel 1 der wet van 4 April 1892 (*Staatsblad* n⁰. 55), tot instelling der Orde van Oranje-Nassau, wordt in plaats van „Nederlanders" gelezen: „Onze onderdanen".

Artikel 7.

In de wet van 12 December 1892 (*Staatsblad* n⁰. 268),*) op het Nederlanderschap en het Ingezetenschap, worden artikel 7 onder 2⁰. en artikel 12 gelezen als volgt:

Artikel 7 onder 2⁰.:

„Door huwelijk van de Nederlandsche vrouw met een man, die den staat van Nederlander niet bezit."

Artikel 12:

„Allen, die den Staat van Nederlander niet bezitten of niet uit anderen hoofde Nederlandsche onderdanen zijn, zijn vreemdelingen.

Artikel 8.

In Artikel 7 der wet van 30 September 1893 (*Staatsblad* n⁰. 146), houdende bepalingen op de fabrieks- en handelsmerken, wordt in plaats van „Nederlander" gelezen: „Nederlandsche onderdaan".

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*) V. N. R. G. 2. s. XVIII, p. 776., XIX, p. 598.

Lasten en bevelen, dat deze in het *Staatsblad* zal worden geplaatst, en dat alle Ministerieele Departementen, Autoriteiten, Colleges en Ambtenaren, wie zulks aangaat, aan de nauwkeurige uitvoering de hand zullen houden.

Gegeven te 's Gravenhage, den 10[den] Februari 1910.

Wilhelmina.

De Minister van Buitenlandsche Zaken,
R. de Marees van Swinderen.

De Minister van Binnenlandsche Zaken,
tijdelijk belast met het beheer van
het Departement van Justitie,
Heemskerk.

De Minister van Binnenlandsche Zaken,
Heemskerk.

De Minister van Financiën,
Kolkman.

De Minister van Landbouw, Nijverheid en Handel,
A. S. Talma.

De Minister van Koloniën,
De Waal Malefijt.

Uitgegeven den *vierden* Maart 1910.

De Minister van Binnenlandsche Zaken,
tijdelijk belast met het beheer van
het Departement van Justitie,
Heemskerk.

Despatch from His Majesty's Minister at The Hague forwarding Law of February 10, 1910, regulating the Status as Netherland Subjects of the Population of the Netherland East Indies.

[In continuation of „Miscellaneous No. 5 (1893)": Cd. 7155.]

Sir G. Buchanan to Sir Edward Grey. — (Received March 3.)

The Hague, March 1, 1910.

Sir,

I have the honour to transmit herewith a translation of the Law of the 10[th] February, 1910, regulating the status as Netherland subjects of the population of the Netherland East Indies.

I have, &c.
George W. Buchanan.

(Translation.) Enclosure.

Law of February 10, 1910, regulating the Status as Netherland Subjects of the Population of the Netherland East Indies.

No. 55.

(Staatsblad of the Kingdom of the Netherlands.)

Article 1. The following persons shall be Netherland subjects even when they are not Netherlanders according to the Law on the Status of Netherlander and Domicile:

(1.) Those born in the Netherland East Indies of parents settled there, or, if the father is unknown, of a mother settled there.

(2.) Those born in the Netherland East Indies whose parents are unknown.

(3.) The wife or non-remarried widow of a subject such as is mentioned under (1) or (2).

(4.) The unmarried children, born out of the Netherland East Indies, of a subject such as mentioned in this article, so long as they are not yet 18 years old.

(5.) The children, born out of the Netherland East Indies, of parents who are subjects according to this article, if, after their marriage, or after they have reached their 18th year, they are settled or settle in the kingdom, as well as their wives and unmarried children who are not yet 18 years old, if they also settle in the kingdom.

Art. 2. The status of Netherland subject mentioned in article 1 shall be lost:

(1.) By naturalisation in a foreign country. This loss shall extend to the woman married to the naturalised person and to those of his children, who are not yet 18 years old.

(2.) By marrying a man to whom the provisions of article 1 (1), (2), or (5) do not apply.

(3.) By entering foreign military or State service without the permission of the Governor-General of the Netherland East Indies.

(4.) In the event of sojourn in a foreign country, by omitting to give notice to a Netherland consular officer in that country within three months after arriving, and, in case of continued sojourn, by omitting to repeat that notice within the first three months of every calendar year.

The notice given by a husband or father for his wife or children, and by a widow for her children, shall have the same force as if the notice had been given by the wife or children themselves.

A person who has lost the status of Netherland subject according to the provisions laid down in (4), and who has not thereafter become situated in circumstances such as are mentioned in (1), (2), or (3), shall reacquire the status of Netherland subject by settling in the Netherland East Indies.

Art. 3. This law shall also be binding for the colonies and possessions in other parts of the world.

Charge and command, &c.

Given at The Hague, the 10th February, 1910.

Wilhelmina.

De Waal Malefyt,
The Minister of the Colonies.

R. de Marees van Swinderen,
The Minister for Foreign Affairs.

Nelissen,
The Minister of Justice.

Issued the 1st March, 1910.

Heemskerk,
The Minister of the Interior, temporarily in charge of the Administration of the Ministry of Justice.

161.

PAYS-BAS.

Loi concernant la nationalité; du 15 juillet 1910.

Staatsblad van het Koninkrijk der Nederlanden 1910. No. 216.

Wet van den 15den Juli 1910, houdende wijziging der wet van den 12 December 1892 (Staatsblad n°. 268) op het Nederlanderschap en het ingezetenschap, gewijzigd bij de wet van den 8 Juli 1907 (Staatsblad n°. 177) en bij de wet van 10 Februari 1910 (Staatsblad n°. 56).

Wij Wilhelmina, bij de gratie Gods, Koningin der Nederlanden, Prinses van Oranje-Nassau, enz., enz., enz.

Allen, die deze zullen zien of hooren lezen, saluut! doen te weten:

Alzoo Wij in overweging genomen hebben, dat het wenschelijk is nadere wijziging te brengen in de wet van 12 Dezember 1892*) (*Staatsblad* n⁰. 268) op het Nederlanderschap en het ingezetenschap, gewijzigd bij de wet van 8 Juli 1907 (*Staatsblad* n⁰. 177)**) en bij de wet van 10 Februari 1910 (*Staatsblad* n⁰. 56);***)

Zoo is het, dat Wij, den Raad van State gehoord, en met gemeen overleg der Staten-Generaal, hebben goedgevonden en verstaan, gelijk Wij goedvinden en verstaan bij deze:

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*) V. N. R. G. 2. s. XVIII, p. 776; XIX, p. 598.
) V. ci-dessus, No. 159. *) V. ci-dessus, No. 160.

Eenig artikel.

Artikel 7, 5*e*. der wet van 12 December 1892 (*Staatsblad* n⁰. 268) op het Nederlanderschap en het ingezetenschap, gewijzigd bij de wet van 8 Juli 1907 (*Staatsblad* n⁰. 177) en bij de wet van 10 Februari 1910 (*Staatsblad* n⁰. 56), wordt gelezen als volgt:

„voor zooveel betreft Nederlanders buiten het Rijk en zijne Koloniën of bezittingen in andere werelddeelen geboren, door, behalve ter zake van 's lands dienst, woonplaats te hebben buiten het Rijk en zijne Koloniën of bezittingen in andere werelddeelen, gedurende tien achtereenvolgende jaren, tenzij de afwezige vóór het verstrijken van dien termijn aan den Burgemeester of het Hoofd van het plaatselijk bestuur zijner laatste woonplaats in het Rijk of zijne Koloniën of bezittingen in andere werelddeelen of aan den Nederlandschen Gezant of een Nederlandschen Consulairen Ambtenaar in het land, waar hij woont, kennis geve, dat hij Nederlander wenscht te blijven.

Van den dag, waarop die kennisgeving ontvangen is, begint de tienjarige termijn opnieuw to loopen.

Ten opzichte van minderjarigen begint de tienjarige termijn to loopen met den dag hunner meerderjarigheid in den zin der Nederlandsche wet."

Overgangsbepaling.

Zij, die in het Rijk of zijne Koloniën of bezittingen in andere werelddeelen geboren, het Nederlanderschap hebben verloren krachtens het voorschrift van artikel 7, 5*e*. der wet van 12 December 1892 (*Staatsblad* n⁰. 268), zooals het ongewijzigd luidde, bekomen hun Nederlanderschap terug op den dag van de inwerkingtreding dezer wet, tenzij zij op dat tijdstip tot een ander land behooren.

Het voorgaande lid is niet van toepassing op gehuwde vrouwen.

De herkrijging van het Nederlanderschap, bedoeld in het eerste lid dezer Overgangsbepaling, heeft zoo voor den betrokken persoon als voor zijne vrouw en kinderen dezelfde gevolgen als eene naturalisatie, krachtens artikel 3 der voormelde wet van 12 December 1892 (*Staatsblad* n⁰. 268) verleend.

Lasten en bevelen, dat deze in het *Staatsblad* zal worden geplaatst en dat alle Ministerieele Departementen, Autoriteiten, Colleges en Ambtenaren, wie zulks aangaat, aan de nauwkeurige uitvoering de hand zullen houden.

Gegeven ten Paleize het Loo, den 15den Juli 1910.

Wilhelmina.

De Minister van Justitie,
E. R. H. Regout.

De Minister van Binnenlandsche Zaken,
Heemskerk.

Uitgegeven den zeven en twintigsten Juli 1910.

De Minister van Justitie,
E. R. H. Regout.

162.

PAYS-BAS.

Ordonnance concernant l'admission des étrangers aux Indes néerlandaises; du 20 janvier 1911.

Staatsblad van Nederlandsch-Indië 1911. No. 138.

Wij Wilhelmina, bij de gratie Gods, Koningin der Nederlanden, Prinses van Oranje-Nassau, enz., enz., enz.

Alzoo Wij in overweging genomen hebben, dat herziening noodig is van de bestaande bepalingen omtrent de toelating en de vestiging in Nederlandsch-Indië van Nederlanders en vreemdelingen, voor zoover deze zich daartoe aanmelden op Java en Madoera;

Gelet op artikel 105 van het Reglement op het beleid der Regeering van Nederlandsch-Indië, vastgesteld bij de wet van 2 September 1854 (Nederlandsch Staatsblad n⁰. 129);

Op de voordracht van Onze Minister van Koloniën van 10 December 1910, Afdeeling A^1, n⁰. 41;

Den Raad van State gehoord (advies van 3 Januari 1911 n⁰. 20);

Gezien het nader rapport van Onzen voornoemden Minister van 16 Januari 1911 n⁰. 8;

Hebben goedgevonden en verstaan:

Met buiten werkingstelling, voor zooveel Java en Madoera betreft, van alle daarmede strijdige voorschriften, te bepalen als volgt:

Artikel 1.

(1) Ontscheping van:

a. Nederlanders niet uit in Nederlandsch-Indië gevestigde ouders geboren, noch ingezetenen van Nederlandsch-Indië zijnde,

b. Vreemdelingen, die niet zijn ingezetenen van Nederlandsch-Indië, is alleen toegelaten in de havens van Tandjong-Priok, Semarang en Soerabaja.

(2) Voor die ontscheping wordt eene schriftelijke vergunning van de door den Gouverneur-Generaal aangewezen autoriteit vereischt.

(3) De voorafgaande bepalingen zijn niet toepasselijk op hen, die in het wettig bezit zijn van een geldige, op den voet van dit besluit verleende toelatingskaart.

(4) De Gouverneur-Generaal bepaalt in welke gevallen de in het tweede lid bedoelde vergunning niet vereischt wordt.

Artikel 2.

(1) De gezagvoerder van een vaartuig, waarop zich passagiers bevinden, is verplicht om:

a. onmiddellijk na aankomst van het schip in een der in artikel 1 genoemde havens, aan de in dat artikel be doelde autoriteit eene ingevulde en door hem onderteekende opgaaf te overhandigen van de zich aan boord bevindende passagiers, die bestemd zijn voor de betrokken haven;

b. te beletten, dat een dier passagiers, voor zoover onderworpen aan de voorschriften van artikel 1, aan wal gaat zonder voorzien te zijn van de vereischte vergunning tot ontscheping.

(2) De in het vorige lid bedoelde opgaaf wordt ingericht volgens een door den Gouverneur-Generaal vastgesteld model.

Artikel 3.

(1) De vergunning tot ontscheping wordt aan boord uitgereikt en is onderworpen aan een betaling van *f* 25.— (vijf en twintig gulden), welk bedrag terugontvangen kan worden, indien de betrokkene niet wordt toegelaten. De vergunning geldt tevens voor de echtgenoote en de minderjarige kinderen van den persoon, aan wien zij verleend is.

(2) De in het vorige lid bedoelde betaling wordt niet gevorderd van Nederlanders.

(3) Zij, die Nederlandsch-Indië binnen een door den Gouverneur-Generaal te bepalen termijn na hunne aankomst op Java verlaten, kunnen die ingevolge het eerste lid betaalde som terugontvangen.

Artikel 4.

(1) De vergunning tot ontscheping wordt binnen drie dagen aan het door den Gouverneur-Generaal daartoe aangewezen college aangeboden ter verwisseling tegen een toelatingskaart.

(2) Die kaart wordt niet verleend aan hen van wie blijkt:

dat zij krankzinnig, idioot of lijdende zijn aan eene besmettelijke ziekte, die geacht wordt gevaar voor de samenleving op te leveren, dan wel tengevolge van hun lichamelijken toestand waarschijnlijk armlastig zullen worden;

dat zij prostituée zijn of van de exploitatie der prostitutie leven;

dat zij in een vreemd land, waarmede een uitleveringsverdrag gesloten is, vervoordeeld zijn wegens een misdrijf waarvoor krachtens dat verdrag uitlevering zou kunnen geschieden;

dat hun het verblijf in Nederlandsch-Indië is ontzegd;

zoomede aan hen,

die niet in staat kunnen worden geacht in het onderhoud van zich zelf en hun gezin behoorlijk te voorzien;

die geacht worden gevaar op te leveren voor de openbare rust en orde.

(3) De uitreiking van die kaart aan hen, wier tegenwoordigheid schadelijk geacht wordt voor de economische belangen der Inlandsche bevolking, kan afhankelijk gesteld worden van het voldoen aan door den Gouverneur-Generaal te bepalen bijzondere voorwaarden, dan wel worden geweigerd.

(4) Bij de in het eerste lid bedoelde verwisseling, wordt ook aan de echtgenoote en de minderjarige kinderen ieder een toelatingskaart uitgereikt.

Artikel 5.

(1) Onverminderd het bepaalde bij artikel 10, geeft de toelatingskaart den wettigen houder het recht om, met inachtneming van de bepalingen op het verkeer en verblijf, gedurende twee jaren op Java en Madoera zich op te houden.

(2) Voor de bezittingen buiten Java en Madoera geeft die kaart den wettigen houder hetzelfde recht als de toelatingskaart, verleend krachtens de aldaar geldende bepalingen omtrent de toelating en vestiging in Nederlandsch-Indië.

(3) De in het eerste lid genoemde termijn kan, op verzoek van den belanghebbende, tweemaal telkens voor ten hoogste een jaar worden verlengd door het Hoofd van het gewest, waar de verzoeker verblijf houdt.

(4) Van die verlenging wordt op de toelatingskaart aanteekening gehouden.

Artikel 6.

(1) Van de weigering van de toelatingskaart kan de belanghebbende, mits binnen acht dagen na die weigering, in beroep komen bij het Hoofd van het gewest, waar hij zich ontscheepte.

(2) Dat beroep wordt gedaan door tusschenkomst van het in het eerste lid van artikel 4 bedoeld college, dat, in afwachting van de beslissing van voormeld Bestuurshoofd, den belanghebbende van een voorloopig toelatingsbewijs voorziet.

Artikel 7.

(1) Ingeval het in het vorig artikel bedoeld beroep gegrond is verklaard, wordt het toelatingsbewijs verwisseld tegen een toelatingskaart.

(2) Is het beroep afgewezen of de belanghebbende tegen de weigering van de toelatingskaart niet in verzet gekomen, dan wordt — tenzij de belanghebbende Nederlandsch-Indië reeds mocht hebben verlaten — door het in het eerste lid van artikel 6 bedoeld Hoofd van gewestelijk bestuur een schriftelijk bevel tot diens verwijdering uit Nederlandsch-Indië uitgevaardigd.

(3) In afwachting van zijne inscheping kan de betrokkene door het Hoofd van Gewestelijk Bestuur in verzekerde bewaring worden gehouden of onder politietoezicht worden gesteld.

Artikel 8.

(1) Hij, die, behoorende tot een der in het eerste lid van artikel 1 bedoelde groepen van personen, op Java en Madoera wordt aangetroffen

zonder in het wettig bezit te zijn van een geldige toelatingskaart of een nog geldig toelatingsbewijs, wordt gebracht voor het Hoofd van plaatselijk bestuur der afdeeling, waar hij verblijft, die hem alsnog van een toelatingskaart voorziet, tenzij hij behoort tot dezulken, aan wie op grond van artikel 4 geen toelatingskaart zou zijn verleend.

(2) Voor de krachtens het vorig lid uitgereikte toelatingskaart is verschuldigd een som van *f* 25.— (vijf en twintig gulden), ingeval de belanghebbende in het wettig bezit is van een geldige vergunning tot ontscheping, anders van *f* 50.— (vijftig gulden), een en ander voor zoover de kaart niet betreft de echtgenoote en minderjarige kinderen van den belanghebbende.

(3) Wanneer de belanghebbende wettig was toegelaten en hij het niet meer bezitten van zijn toelatingskaart ten genoege van het Hoofd van plaatselijk bestuur kan verklaren, wordt kosteloos een duplicaat uitgereikt.

(4) Ingeval van weigering der toelatingskaart is van die weigering gedurende 8 dagen beroep toegelaten op het Hoofd van gewest, waar de belanghebbende verblijf houdt, dat beslist bij eene met redenen omkleede beschikking.

(5) Onverminderd het beroep, bedoeld in het vorig lid, kan hij, die mocht beweren niet te behooren tot een der in het eerste lid van artikel 1 bedoelde groepen van personen en dat dit besluit op dien grond niet op hem toepasselijk is, dit beweren, mits niet later dan op den veertienden dag na zijn verhoor door het Hoofd van plaatselijk bestuur, bij verzoekschrift aan de beslissing onderwerpen van den Raad van Justitie binnen wiens ressort hij verblijf houdt.

De Raad van Justitie doet uitspraak na den Officier van Justitie gehoord te hebben, die van de uitspraak mededeeling doet aan het Hoofd van plaatselijk bestuur.

In afwachting van de uitspraak wordt aan het bevelschrift tot verwijdering geen uitvoering gegeven.

(6) Ingeval de toelatingskaart niet wordt verleend, wordt door het Hoofd van het gewest waar de betrokkene verblijft, een schriftelijk bevel tot diens verwijdering uit Nederlandsch-Indië uitgevaardigd. Dat Bestuurshoofd verleent den betrokkene desverlangd een termijn om orde te stellen op zijn zaken, na verloop waarvan hij opgezonden wordt naar de naastbij gelegene van de in artikel 1 genoemde havens, alwaar hij door het Hoofd van gewestelijk bestuur in afwachting van zijne inscheping in verzekerde bewaring kan worden gehouden of onder politietoezicht kan worden gesteld.

Artikel 9.

(1) Ter verkrijging van eene vergunning tot vestiging in Nederlandsch-Indië wendt de belanghebbende zich, onder overlegging van zijn toelatingskaart, bij gezegeld verzoekschrift tot den Gouverneur-Generaal, door tusschenkomst van het Hoofd van het gewest, waar de verzoeker verblijf houdt.

(2) Dat Bestuurshoofd houdt van die indiening van het verzoekschrift aanteekening op de toelatingskaart en geeft deze daarna terug aan den

belanghebbende, die gehouden is die kaart, na ontvangst van de vergunning tot vestiging, aan voormeld Bestuurhoofd af te geven.

(3) In afwachting van de beslissing van den Gouverneur-Generaal, behoudt de verzoeker het recht, bedoeld in het eerste en tweede lid van artikel 5.

Artikel 10.

(1) De Gouverneur-Generaal kan de vergunning tot vestiging weigeren in het belang van de openbare rust en orde, zoomede wanneer de belanghebbende niet in staat wordt geacht behoorlijk in zijn onderhoud en dat van zijn gezin te voorzien of wanneer hij wegens misdrijf sedert zijne toelating mocht zijn veroordeeld.

(2) De weigering van de vergunning tot vestiging wordt met redenen omkleed en houdt tevens het bevel in tot verwijdering uit Nederlandsch-Indië.

(3) Op deze verwijdering is toepasselijk het bepaalde bij het zesde lid van artikel 8.

Artikel 11.

(1) Overtreding van het bepaalde bij artikel 2, wordt gestraft met eene geldboete van *f* 100.— (één honderd gulden) voor elken persoon, te wiens aanzien de overtreding is gepleegd.

(2) Voor de betaling van de opgelegde boeten is het vaartuig verbonden en executabel.

Artikel 12.

(1) Hij, die na krachtens dit besluit uit Nederlandsch-Indië te zijn verwijderd, op Java en Madoera wordt aangetroffen, zonder in het wettig bezit te zijn van een geldige toelatingskaart, wordt gestraft met eene geldboete van ten hoogste *f* 100.— (één honderd gulden).

(2) Na de tenuitvoerlegging van de straf wordt hij opnieuw uit Nederlandsch-Indië verwijderd.

Artikel 13.

Met dezelfde straf, als genoemd in artikel 12, wordt gestraft hij, die op Java en Madoera gebruik maakt van eene ten name van een ander staande toelatingskaart of vergunning tot vestiging in Nederlandsch-Indië.

Artikel 14.

De bepalingen van dit besluit zijn niet toepasselijk op:

a. de van Landswege naar Nederlandsch-Indië gezonden personen met hunne gezinnen;

b. de consulaire ambtenaren met hunne gezinnen;

c. de officieren en de bemanning van tot de Marine van eenige Mogenheid behoorende schepen.

Artikel 15.

De Gouverneur-Generaal is bevoegd van de bepalingen van dit besluit dispensatie te verleenen.

Artikel 16.

(1) Voor zoover nevens dit besluit en de tot zijne uitvoering vereischte voorschriften nog andere voorzieningen ter verzekering zijner goede werking worden vereischt, worden deze door den Gouverneur-Generaal vastgesteld.

(2) Hij regelt mede, onder welke voorwaarde aan Nederlanders en vreemdelingen vergunning kan worden verleend om in Nederlandsch-Indië te reizen.

Overgangsbepaling.

Het bepaalde bij het eerste en tweede lid van artikel 1 is niet toepasselijk op hen, die in het wettig bezit zijn van een geldige toelatingskaart, vóór de inwerking treding van dit besluit verleend op den voet van de toen geldende bepalingen omtrent de toelating in Nederlandsch-Indië van Nederlanders en vreemdelingen.

Dit besluit treedt in werking op een door den Gouverneur-Generaal te bepalen dag.

Onze Minister van Koloniën is belast met de uitvoering van dit Besluit, waarvan afschrift zal worden gezonden aan den Raad van State.

's Gravenhage, den 20 Januari 1911.

Wilhelmina.

De Minister van Koloniën,
de Waal Malefijt.

Accordeert met het Origineel,
De Secretaris-Generaal
bij het Departement van Koloniën,
v. d. Houven van Oordt.

163.

ITALIE, FRANCE.

Echange de notes diplomatiques concernant l'importation réciproque des médicaments et produits pharmaceutiques; des 12 et 13 octobre 1907.

Bolletino del Ministero degli Affari Esteri 1909. Aprile.

Il Ministro degli affari esteri d'Italia all'Incaricato d'affari di Francia.

Roma, 12 ottobre 1907.

Signor incaricato d'affari,

Essendosi ritenuto conveniente di stabilire in modo preciso e definitivo i criteri di massima per l'applicazione dell'art. 14 delle disposizioni

preliminari della tariffa doganale italiana, per quanto riguarda l'importazione dei generi medicinali e dei medicamenti composti provenienti dalla Francia, ed avendo il consiglio superiore di sanità ritenuto che le disposizioni che regolano in Francia la produzione dei medicinali e dei medicamenti composti offrono, per la tutela sanitaria, garanzie idonee ed equivalenti in efficacia a quelle assicurate dalla legge italiana per la produzione dei medicinali e medicamenti composti nel regno, il governo del Re ha deliberato che ai medicinali e medicamenti composti prodotti in Francia sia, nei riguardi sanitari, consentita, in via di massima e senza necessità di provvedimenti singoli da applicarsi per ciascun prodotto, la libera introduzione nel regno, semprechè il governo francese abbia a concedere ai medicinali e medicamenti composti prodotti in Italia, identico trattamento nei riguardi sanitari, per la introduzione in Francia.

Sotto tale condizione si avverte:

1º che i medicamenti composti dovranno portare sulla etichetta, applicata a ciascun recipiente, l'indicazione esatta:

a) dei componenti del prodotto colla denominazione abituale della pratica medica (escluse le formule chimiche);

b) della dose relativa, come è prescritto per consimili prodotti fabbricati e messi in circolazione nel regno;

2º che non sono compresi coi medicinali e medicamenti composti, previsti dalla presente nota, i sieri, vaccini, virus, tossine e prodotti affini contemplati dalla legge italiana 8 luglio 1904, n. 360, e del relativo regolamento 18 giugno 1905, n. 407, come pure dalla legge francese del 25 aprile 1895 e dal decreto del 26 gennaio 1896;

3º che il regio governo si riserva la facoltà — che riconosce reciprocamente anche nel governo francese — di proibire, in casi eccezionali e per speciali motivi di sanità pubblica, l'introduzione nel regno di un dato prodotto, salvo a darne, dove il caso si verificasse, immediato avviso al governo francese.

Ho l'onore di pregare la Signoria Vostra di volermi far conoscere se il governo francese aderisce all'accordo su queste basi, e, in caso affermativo, di rivolgermi, in nome di esso, analoga dichiarazione assicurante la reciprocità di trattamento.

Gradisca, ecc. *Tittoni.*

L'Incaricato d'affari di Francia al Ministro degli affari esteri d'Italia.

Rome, le 13 octobre 1907.

Monsieur le ministre,

Le gouvernement de la république a décidé d'adhérer à l'accord pour l'importation réciproque des médicaments et produits pharmaceutiques en Italie et en France sur les bases de la note remise par le gouvernement italien le 12 octobre 1907.

Dans cette note, le gouvernement royal déclare que:

„Ayant reconnu qu'il convenait d'établir d'une manière précise et „définitive le principe pour l'application de l'article 14 des dispositions „préliminaires du tarif douanier italien, en ce qui concerne l'importation „des produits médicinaux et des médicaments composés provenant de „France, et le conseil supérieur de santé ayant reconnu que les dispositions „qui règlent en France la production des produits médicinaux et des „médicaments composés offrent pour la sauvegarde de la santé publique „des garanties suffisantes et équivalentes en efficacité à celles qui sont „assurées par la loi italienne pour la production des produits médicinaux „et des médicaments composés dans le royaume, le gouvernement du Roi a „décidé que les produits médicinaux et les médicaments composés produits „en France jouiront, au point de vue sanitaire, en principe et sans néces- „sité de mesures spéciales à appliquer pour chaque produit, de la libre „entrée dans le royaume, à condition que le gouvernement français accorde „aux produits médicinaux et aux médicaments composés produits en Italie „un traitement identique, au point de vue sanitaire, à leur entrée en „France."

Le gouvernement de la république, prenant acte de cette déclaration, s'engage à accorder, pour sa part, un traitement identique, au point de vue sanitaire et sous réserve de l'accomplissement des prescriptions d'ordre tarifaire de la loi douanière du 11 janvier 1892, aux produits médicinaux et médicamentaux composés, produits en Italie, à leur entrée en France.

Dans cet arrangement réciproque il est à noter:

1⁰ que les médicaments composés devront porter sur l'étiquette, apposée sur chaque récipient, l'indication exacte:

a) des parties composant le produit avec la dénomination habituelle de la pratique médicale (à exclusion des formules chimiques);

b) de la dose relative ainsi qu'il est prescrit pour les produits similaires fabriqués et mis en circulation en Italie;

2⁰ que parmi les produits médicinaux et médicaments composés prévus par la présente note ne sont pas compris les sérums, vaccins, virus, toxines, et produits similaires visés dans la loi italienne du 8 juillet 1904, n. 360, et dans le règlement du 18 juin 1905, n. 407, ainsi que dans la loi française du 25 avril 1895 et le décret du 20 janvier 1896;

3⁰ que chacun des deux gouvernements se réserve de prohiber, dans des cas exceptionnels et pour des motifs spéciaux de santé publique, l'introduction de tout produit médicinal sauf à en donner, si cette circonstance se produisait, avis immédiat à l'autre gouvernement.

J'ai l'honneur de communiquer ce qui précède à Votre Excellence, conformément à l'autorisation que j'ai reçue à cet effet du gouvernement de la république, et je saisis etc.

J. Laroche.

164.

BOLIVIE, PÉROU.

Protocole concernant la médiation du Gouvernement péruvien entre la Bolivie et le Saint-Siège; signé à la Paz, le 5 novembre 1907.

Anexos á la Memoria presentada al Congreso de 1908. La Paz 1908.

Acta.

Reunidos en el Ministerio de Relaciones Exteriores de Bolivia, el Ministro del Ramo, señor doctor don Juan M. Saracho y el Enviado Extraordinario y Ministro Plenipotenciario del Perú, señor doctor don Melitón F. Porras, con el objeto de establecer la manera de hacer efectiva la mediación propuesta por el Excmo. Gobierno del Perú, en el asunto que originó el retiro del Plenipotenciario boliviano ante la Santa Sede; el señor Ministro del Perú manifestó el reconocimiento de su Gobierno por la aceptación que hizo el de Bolivia de los buenos oficios que como mediador propuso en el incidente que dió lugar á la ruptura de relaciones entre Bolivia y la Santa Sede. Agregó, que igual prueba de deferencia había recibido su Gobierno del de Su Santidad y que en tal virtud, visto que de una y otra parte no había mediado propósito alguno de hostilidad y contemplados sus altos intereses, proponía el restablecimiento de relaciones entre ambas Potestades, para cuyo efecto indicaba, que debían tanto el Gobierno de Bolivia, como el de la Santa Sede, quedar comprometidos á restablecer ó acreditar cada uno ante el otro sus respectivos Representantes Diplomáticos. Expresó además, que esta proposición había sido aceptada por el Representante de la Santa Sede en Lima y que en consecuencia, el Excmo. señor Angelo Dolci estaba dispuesto á venir á La Paz con el objeto de presentar sus credenciales y que esperaba que igual asentimiento había de prestar el Gobierno de Bolivia. El señor Ministro de Relaciones Exteriores expuso, que su Gobierno aceptaba también la forma propuesta por el señor Ministro del Perú á fin de hacer efectiva la amistosa mediación iniciada y que por lo tanto, ofrecía constituir una nueva Legación ante la Santa Sede, declarando al mismo tiempo, que le sería satisfactorio recibir al Excmo. señor Delegado Apostólico.

En fé de lo cual firmaron esta acta, en doble ejemplar en La Paz, á los cinco días del mes de Noviembre de mil novecientos siete años.

(Firmado) *J. M. Saracho.*
(Firmado) *M. F. Porras.*

165.

GRANDE-BRETAGNE, JAPON.

Echange de notes concernant l'immigration japonaise au Canada; du 23 décembre 1907.

The Japan Times du 30 janvier 1908.

From M. Lemieux to Count Hayashi.

British Embassy,

Tokio, 23rd December, 1907.

Monsieur le Ministre,

After the several interviews which have taken place at the Foreign Office since my arrival here, on the subject of Japanese immigration to Canada, I have come to the conclusion that His Imperial Majesty's Government cannot accede to my request for a numerical limitation to emigration. At this state of the negotiations, it would be quite unnecessary for me to offer any further arguments as to why the request of the Canadian Government should be complied with, but it has appeared to me in the course of these friendly interviews, that the Japanese Government had evinced a sincere desire to see any further agitation in British Columbia effectually stopped. In order to further this object I understand they are willing to restrict voluntarily, within reasonable limits, the volume of emigration. I have the honour, therefore, to request that before returning to Canada and reporting to my Government, your Excellency would be so good as to give me an official assurance as to the intention of His Imperial Majesty's Government in the matter. The Canadian Government is above all desirous that the happy relations which have always existed between the two countries shall remain unimpaired, and I feel confident that His Imperial Majesty's Government are anxious to find a solution of the difficulty which as I have already explained to Your Excellency exists in the Province of British Columbia.

I have the honour to be Sir Your obedient servant,

R. Lemieux.

His Excellency Count Hayashi,
Minister Foreign Affairs,
Tokyo.

From Count Hayashi to M. Lemieux.

Monsieur le Ministre:

In reply to your note of even date I have the honour to state that although the existing treaty between Japan and Canada absolutely guarantees to Japan subjects full liberty to enter, travel and reside in any part of the Dominion of Canada, yet it is not the intention of the Imperial Government to insist upon the complete enjoyment of the rights and privileges guaranteed by those stipulations where that would involve disregard of special conditions which may prevail in Canada from time to time.

Acting in this spirit and having particular regard to circumstances of recent occurrence in British Columbia, the Imperial Government have decided to take efficient means to restrict emigration to Canada. In carrying out this purpose, the Imperial Government, in pursuance of the policy above stated, will give careful consideration to local conditions prevailing in Canada, with a view to meeting the desires of the Government of the Dominion so far as is compatible with the spirit of the treaty and the dignity of the State.

Although, as stated in the note under reply, it was not possible for me to acquiesce in all of the proposals made by you on behalf of the Canadian Government, I trust that you will find in the statement herein made proof of the earnest desire of the Imperial Government to promote, by every means within their power, the growth and stability of the cordial and mutually beneficial relations which exist between our countries. I venture to believe, also, that this desirable result will be found to have been materially advanced by the full exchange of views which has taken place between us, and it gives me especial pleasure to acknowledge the obligations under which I have been placed by your frank and considerate explanations regarding the attitude and wishes of your Government.

I avail myself etc., etc.

166.

JAPON, CHINE.

Arrangement en vue de réaliser les dispositions de l'Article 10 du Protocole annexé au Traité sur la Mandchourie du 22 décembre 1905,*) concernant l'exploitation des forêts dans les régions situées sur la rivière Yalou; signé à Péking, le 14 mai 1908.

The Japan Times du 29 mai 1908.

Baron Gonsuke Hayashi, Japanese Envoy Extraordinary and Minister Plenipotentiary, and Na Tung, Minister of the Foreign Office of China, each acting under instructions from their respective Governments, conclude the following Regulations of the Chino-Japanese Timber Company, in accordance with Article X. of the protocol annexed to the Chino-Japanese Agreement relating to Manchuria concluded on the 22nd December, the 38th Year of Meiji, that is on the 26th November, the 31st Year of Kuangsu.

Art. I. The timber within the limits of 60 Chinese miles from the surface of the Yalu on the right bank of the river between Maœrhshun and Jishihsz'taokeu shall be felled by joint capital of China and Japan. The limits will be designated by posts to be erected by Chinese commissioners to be dispatched from Mukden, in consultation with Japanese commissioners. But in the beginning of the organization of the company the business shall be conducted by a bureau composed by officials dispatched from both countries, and on the lapse of one year and after all business has been placed in good order, both countries shall call for general shareholders and cause them to succeed to it.

Art. II. The timber company under joint proprietorship of Japan and China is called the Oryokko Saiboku Kaisha (Yalu Timber Company).

Art. III. The company shall have a capital of 3 million yen, China and Japan producing a half of the sum.

Art. IV. The company shall establish its head office at Antung. In case the company deems it necessary, it may establish branches at different places by informing the fact to President.

Art. V. The company agrees to maintain the existing Chinese woodcutters. The district within the limits declared in Article I. belong to the timber felling by the company, but the forests outside the limits and on the Hun-ho belong still to the felling of the present Chinese wood-

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*) V. N. R. G. 2. s. XXXIV, p. 753.

cutters. But these woodcutters shall borrow the capital they need from this Company. The woodcutters may directly sell their timber as sleepers to the Kiangche Railway Company and to the inhabitants on the banks of the Hun-ho for their own use. Outside of this, the whole of the timber felled by the woodcutters shall be purchased by the Company. The latter shall sell the timber in accordance with the market price and not charge arbitrary prices.

Art. VI. In Case the Chinese Government or offices demand timber felled by the Company or purchased by it from the woodcutters, they shall make purchases from the company by giving it a certificate (letter of guarantee). In such case the company shall supply timber at cost price and ought not to raise the price.

Art. VII. The business term of the company shall be 25 years. But on expiration of the term and in case the Chinese Government deems the Company's business to be sound the Company may apply to the Chinese Government for permission to prolong its term of business.

Art. VIII. The Company shall have a President, whose position shall be held by the Taotai of the Eastern Borders, by order of the Mukden Viceroy or Governor, and who shall superintend the business of the Company. The Company again shall have two chief directors, China and Japan appointing one respectively. They shall manage the entire business of the Company. Other directors and engineers shall be appointed by the conference of directors. In case a foreigner is required for felling timber within the said districts, the chief directors shall apply to the President for permission to engage the same.

Art. IX. The Company shall submit, at the end of each year, to the authorities concerned of both countries, the business report and accounts for that year.

Art. X. The Company shall pay five per cent, of net profit (gross income minus gross expenditure) to the Chinese Government as royalty, and distribute the rest of the profit equally among Chinese and Japanese shareholders. No arbitrary payment of the Company's expenses is allowed. The estimates of Salary of the Company's employees and all other expenditure shall be submitted to the President for sanction on proper occasions.

Art. XI. All regulations relating to the organization of the Company shall be decided upon by two commissioners, each to be appointed by the Mukden Viceroy or Governor and Japanese Consul-General at Mukden, within one month after conclusion of this general agreement. The Company shall be opened to business in three months after receiving its regulations. Any regulations that the Company may provide afterwards shall be submitted to the President for sanction.

Art. XII. The timber tax to be paid by the Company shall have some reduction, at the consent of local authorities, by the conference of the commissioners of the two countries meeting at Mukden to provide detailed

regulations for the Company. But all machinery and tools that may be imported by the Company and that are required for timber felling shall be exempt from all taxes, likin, and other duties.

Art. XIII. The Japanese Government consents to abolish its Yalu Timber Works on the opening of the Company for business.

(Sgd.) Baron *Gonsuke Hayashi*,
Envoy Extraordinary and Minister
Plenipotentiary of Japan.

(Sgd.) *Na Tung*,
Minister of Foreign Affairs of China.

Peking,
May 14, 41st Year of Meiji of Japan.
April 15, 34th Year of Kuangsu of China.

167.

ESPAGNE, COLOMBIE.

Convention concernant l'exécution des jugements portés par les tribunaux respectifs; signée à Madrid, le 30 mai 1908.*)

Gaceta de Madrid du 18 avril 1909.

El Gobierno de S. M. el Rey de España y el de la República de Colombia, deseosos de estrechar, cada día más, las relaciones de amistad y buena correspondencia, felizmente existentes entre las dos Naciones, han resuelto celebrar un Convenio para el cumplimiento de las sentencias civiles dictadas por los Tribunales de ambos países, y al efecto han nombrado para este fin:

El Gobierno de S. M. el Rey de España, al Excmo. Sr. D. Manuel Allendesalazar y Muñoz de Salazar, Gran Cruz de la Orden Piana, de Cristo de Portugal, de la Orden de Victoria de la Gran Bretaña y de la Legión de Honor de Francia, Ministro de Estado, etc. etc., y

El Gobierno de la República de Colombia al Excmo. Sr. D. Juan Evangelista Marique, Enviado Extraordinario y Ministro Plenipotenciario en esta Corte, quienes, debidamente autorizados, han convenido los artículos siguientes:

Artículo 1.º Las sentencias civiles pronunciadas por los Tribunales Comunes de una de las Altas Partes Contratantes, serán ejecutadas en la otra, siempre que reunan los requisitos siguientes:

*) Les ratifications ont été échangées à Madrid, le 16 avril 1909.

Primero. Que sean definitivas y que estén ejecutoriados como en derecho se necesitaría para ejecutarlas en el País en que se hayan dictado.

Segundo. Que no se opongan á las leyes vigentes en el Estado en que se solicite su ejecución.

Art. 2.º La primera de las circunstancias á que se refiere el artículo anterior, se comprobará por un certificado expedido por el Ministro de Gobierno ó de Gracia y Justicia, siendo la firma de éstos legalizada por el correspondiente Ministro de Estado ó de Relaciones Exteriores y la de éste é su vez por el Agente Diplomático respectivo, acreditado en el lugar de la legalización.

Art. 3.º Antes de ejecutarse la sentencia deberá oirse al Ministerio Público ó Fiscal, de acuerdo con las leyes de cada uno de los dos países contratantes; y contra el auto ó sentencia que dictare el Tribunal requerido, no podrá interponerse apelación.

Art. 4.º El presente Convenio será ratificado conforme á las respectivas Legislaciones, y las ratificaciones se canjearán en Madrid tan pronto como sea posible, permaneciendo en vigor hasta un año después del día en que una de las altas partes contratantes lo denunciare en todo ó en parte.

En fe de lo cual, los infrascritos han firmado el presente Convenio, poniendo en él sus sellos.

Hecho por duplicado en Madrid á 30 de Mayo de 1908.

(L. S.) *Manuel Allendesalazar.*
(L. S.) *Juan E. Manrique.*

168.

CHINE, JAPON.

Convention télégraphique; signée à Tokio, le 12 octobre 1908.*)

Traduction allemande.

Chinesisch-japanischer Telegraphen-Vertrag.

Der vorliegende Vertrag ist von den Bevollmächtigten unterzeichnet worden, die die Regierung Chinas und Japans zu dem Zwecke ernannt haben, im Wege gegenseitigen Nachgebens eine friedliche Vereinbarung über die Frage betreffend das Kabel von der Kuantung Provinz nach

*) Les ratifications ont été échangées le 12 janvier 1909.

Tschifu und die japanischen Telegraphen in der Mandschurei zu erzielen. Sie haben sich nunmehr auf folgende Bestimmungen geeinigt:

Artikel 1.

China und Japan werden von einem Orte in der Kuantung Provinz ein Kabel nach Tschifu legen. $7^1/_2$ englische Meilen nördlich von Tschifu ab wird das Kabel von Japan gelegt und verwaltet; das $7^1/_2$ englische Meilen lange südliche Ende wird von China gelegt und verwaltet. An einem $7^1/_2$ englische Meilen nördlich von Tschifu gelegenen Punkte werden beide Enden miteinander verknüpft. Das Kuantung Ende wird ausschliesslich von Japan betrieben, das Tschifu Ende ausschliesslich von China. Jedoch wird das Kabel täglich eine bestimmte Zeit lang mit dem japanischen Postamt in Tschifu direkt verbunden werden, um dem speziellen japanischen Bedürfnisse gerecht zu werden. Die Zeit muss lang genug sein, um das Arbeitspensum bewältigen zu können. Ihre Dauer wird durch gegenseitige Vereinbarung festgesetzt werden. Während dieser Zeit darf das japanische Postamt in Tschifu mittels des Kabels für Tschifu bestimmte beziehungsweise in Tschifu aufgegebene japanische amtliche Telegramme und Tschifuer japanische Privattelegramme im Verkehr mit den japanischen Telegraphenämtern empfangen und annehmen. Derartige Privattelegramme müssen aber in japanischer Schrift geschrieben sein. Für die vorgenannten Telegramme wird Japan an China eine bestimmte Summe als Entgelt für die Benutzung seines Drahtes zahlen. Deren Höhe wird im Wege gegenseitiger Vereinbarung festgesetzt werden. Die Verbindungsleitung vom chinesischen Telegraphenamt zum japanischen Postamt in Tschifu wird von China gelegt und verwaltet. Japan verspricht, mit allen Kräften zu verhindern zu suchen, dass sonstige Telegramme aus oder nach Orten in China über Tschifu weitergeleitet werden. Ferner verpflichtet es sich, ohne Zustimmung Chinas ausserhalb des Pachtgebiets und ausserhalb des Eisenbahngebiets nirgends in China Kabel zu legen, Telegraphenleitungen oder Fernsprechleitungen zu bauen oder drahtlose Telegraphie irgend welchen Systems einzurichten, unbeschadet der nach dem vertragsmässigen Rechte der Meistbegünstigung aus späteren Unternehmungen anderer Länder etwa herzuleitenden Befugnisse.

Wegen der Telegraphen- und Kabelgebühren für die mittels des Kabels Kuantung-Tschifu weiterbeförderten Telegramme werden in einem besonderen Vertrage bindende Sätze vereinbart werden.

Artikel 2.

Alle japanischen Telegraphenleitungen in der Mandschurei ausserhalb des Eisenbahngebiets werden gegen Zahlung von 50000 Gold Yen chinesischerseits sofort an China übergeben werden. Wegen der japanischen Telephonleitungen in der Mandschurei ausserhalb des Eisenbahngebiets ist Japan bereit, mit China ein endgültiges Abkommen zu treffen. Solange dies nicht erzielt ist, willigt Japan ein, ohne Zustimmungen Chinas sein Netz nicht weiter auszubauen, es auch nicht zur Weitergabe von Telegrammen in Konkurrenz mit dem chinesischen Telegraphenbetriebe zu benutzen.

Artikel 3.

China willigt darin ein, folgende sechs mandschurische für den internationalen Handelsverkehr geöffnete und in der Nähe des japanischen Eisenbahngebiets gelegene Plätze: Antung, Niutschwang, Liaoyang, Fengtien, Tiehling und Changchun fünfzehn Jahre lang durch einen oder zwei leihweise zum ausschliesslich japanischen Gebrauch überlassene Drähte mit dem Eisenbahngebiet in Verbindung zu bringen. Diese Drähte stehen bis zum Eisenbahngebiet unter chinesischer polizeilicher Kontrolle und Obhut.

Artikel 4.

Die nach Artikel 3 leihweise zu überlassenden Drähte müssen von japanischen Telegraphenbeamten, die in japanischen Diensten stehen, innerhalb der chinesischen Telegraphenämter bedient werden. China stellt ihnen in angemessener Weise die erforderlichen Expeditions- und Diensträume zur Verfügung, wofür ihm Japan jährlich 700 mexikanische Dollars Mietzins zahlt. Die Wohnräume der Telegraphenbeamten sind darin nicht eingeschlossen.

Artikel 5.

Die nach Artikel 3 leihweise zu überlassenden Drähte dürfen nur zum Zwischenverkehr mit den japanischen Telegraphenämtern Verwendung finden.

Artikel 6.

Die japanischen Expeditionsräume in den in Artikel 3 genannten geöffneten Plätzen werden sich innerhalb der chinesischen Telegraphenämter befinden. Die zur Beförderung japanischer Telegramme angestellten Telegraphenboten dürfen keine besondere Uniform tragen.

Artikel 7.

Japan verpflichtet sich, für die in der Mandschurei mit den japanischen Telegraphenlinien beförderten Telegramme an die chinesische Regierung ein Pauschale von jährlich 3000 Gold Yen zu zahlen.

Artikel 8.

Der vorliegende Vertrag bedarf der Bestätigung durch die chinesische und die japanische Regierung und tritt in Wirksamkeit, sobald die Einzelheiten wegen des Tschifu-Kuantung Kabels und der japanischen Telegraphenlinien in der Mandschurei vereinbart sind.

Er ist in englischer Sprache abgefasst und in Tokio vereinbart. Zur Bekräftigung dessen wird er in zwei Exemplaren gegenseitig gezeichnet.

Am 12. Oktober 1908.

169.

WURTTEMBERG, BADE.

Traité concernant les communications par voie ferrée entre les deux pays; signé à Stuttgart, le 12 décembre 1908, suivi d'une Convention additionnelle, signée à Pforzheim, le 15 décembre 1910.*)

Regierungsblatt für das Königreich Württemberg 1912. No. 15.

Staatsvertrag zwischen Württemberg und Baden über die Herstellung weiterer Eisenbahnverbindungen zwischen den beiderseitigen Staatsgebieten.

Die Königlich Württembergische und die Grossherzoglich Badische Regierung haben in der Absicht, weitere Eisenbahnverbindungen zwischen den beiderseitigen Staatsgebieten zu vereinbaren, Bevollmächtigte ernannt, die vorbehältlich der Allerhöchsten Ratifikation nachstehenden Vertrag verabredet haben:

Artikel 1.

Auf Württembergischem und Badischem Gebiet sollen Eisenbahnverbindungen von Klosterreichenbach über Schönmünzach nach Weisenbach und von Bretten über Knittlingen und Derdingen nach Kürnbach hergestellt werden. Die Bahnen sollen als Nebenbahnen mit voller Spurweite nach den Vorschriften der Eisenbahn-Bau- und Betriebsordnung gebaut werden.

Artikel 2.

Der Bau der Bahnen wird von jedem Staat für sein Gebiet auf eigene Rechnung unternommen.

Unter der Voraussetzung, dass die beteiligten Gemeinden und sonstigen Interessenten die ihnen hinsichtlich des Bahnbaues angesonnenen Leistungen in rechtsverbindlicher Weise übernehmen, sollen die Bahnen innerhalb eines Zeitraums von acht Jahren, vom Tag der Auswechslung der Ratifikation des gegenwärtigen Staatsvertrags gerechnet, in ihrer ganzen Länge in vollkommen betriebsfähigem Zustand hergestellt werden.

Sollten unvorhergesehene ausserordentliche Ereignisse eintreten, so wird die Baufrist entsprechend verlängert werden.

Artikel 3.

Zur Erzielung der möglichsten Übereinstimmung in den Konstruktionsverhältnissen der herzustellenden Bahnen und ihres Zubehörs sollen die mit der Ausführung beauftragten Behörden sich gegenseitig die Baupläne

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*) Ratifiés.

über die Grenzstrecken und sonstige hierauf bezügliche Nachweise mitteilen, auch während des Baues in stetem Benehmen miteinander bleiben.

Über die Grenzübergangspunkte und den Anschluss der Grenzstrecken in horizontaler und vertikaler Richtung werden von den beiderseitigen Behörden gemeinschaftlich genaue Entwürfe gefertigt und der Genehmigung der beiden Regierungen unterstellt werden.

Artikel 4.

Den beiden Regierungen bleibt eine Vereinbarung darüber vorbehalten, dass die eine oder andere von ihnen auch den Bau der auf dem fremden Staatsgebiet gelegenen Bahnstrecken ganz oder teilweise gegen Ersatz ihrer Selbstkosten übernimmt.

Artikel 5.

Falls nicht zwischen beiden Regierungen eine Verständigung dahin zustande kommt, dass der Betrieb der einen oder andern Bahn auf der ganzen Strecke einer Verwaltung auf deren eigene Rechnung übertragen wird, soll nach der von den Regierungen zu treffenden näheren Vereinbarung soweit tunlich ein einheitlicher Betrieb, geeignetenfalls unter Einbeziehung anschliessender Bahnstrecken, in der Weise eingerichtet werden, dass eine Verwaltung entweder die Besorgung des gesamten Betriebs- und Bahnunterhaltungsdienstes auf gemeinsame Rechnung oder die Besorgung des Fahrdienstes übernimmt.

Artikel 6.

Die volle Landeshoheit verbleibt jeder Regierung auf ihrem Staatsgebiet.

Die bahn- und betriebspolizeiliche Aufsicht wird von dem Bahnpersonal desjenigen Staats, auf dessen Gebiet die Bahnstrecke gelegen ist, ausgeübt, soweit von beiden Regierungen nicht in der nach Artikel 5 zu treffenden Vereinbarung eine anderweite Bestimmung getroffen wird.

Artikel 7.

Die Fahrpläne für die Bahnen sind jeweils von beiden Verwaltungen gemeinsam festzustellen. Dabei ist auf das möglichste Ineinandergreifen der Züge mit den sonstigen auf den Anschlussstationen verkehrenden Zügen Bedacht zu nehmen.

In beiden Richtungen der Bahnen sollen täglich mindestens vier Züge mit Personenbeförderung geführt werden.

Artikel 8.

Jeder Teil wird für die auf seinem Gebiet gelegenen Strecken die auf seinen sonstigen Linien geltenden Tarife anwenden, soweit nicht durch die in Artikel 5 vorbehaltene Vereinbarung etwas anderes bestimmt wird.

Artikel 9.

Bezüglich der Benützung der Bahnen zu Postzwecken bleibt Vereinbarung zwischen den beteiligten Postverwaltungen vorbehalten

Artikel 10.

Die beiden Regierungen behalten sich für den gegenwärtigen Staatsvertrag die Zustimmung der Landesvertretung, soweit diese erforderlich ist, vor.

Artikel 11.

Der gegenwärtige Vertrag soll beiderseits zur Allerhöchsten Genehmigung vorgelegt und die Auswechslung der Ratifikationsurkunden tunlichst bald vorgenommen werden.

Dessen zur Urkunde haben die beiderseitigen Bevollmächtigten den Vertrag in zwei Ausfertigungen unter Beifügung ihrer Siegel eigenhändig unterzeichnet.

So geschehen Stuttgart, den zwölften Dezember im Jahre Eintausend neunhundert und acht.

Metzger
Königl. Württembergischer Ministerialrat.
(L. S.)

Schulz
Grossh. Badischer Ministerialdirektor.
(L. S.)

Schluss-Protokoll zum Staatsvertrage vom 12. Dezember 1908.

Bei der Vereinbarung über den am heutigen Tage vollzogenen Staatsvertrag über die Herstellung weiterer Eisenbahnverbindungen zwischen dem Königlich Württembergischen und dem Grossherzoglich Badischen Staatsgebiet ist von den unterzeichneten Bevollmächtigten unter Genehmigungsvorbehalt noch folgende Verabredung zu Artikel 5 des Staatsvertrags getroffen worden, die nach der Ratifikation mit dem Vertrage selbst gleiche Kraft und Gültigkeit haben soll:

> Falls zwischen beiden Regierungen eine Verständigung dahin zustande kommt, dass der Betrieb der einen oder anderen Bahn auf der ganzen Strecke einer Verwaltung auf deren eigene Rechnung übertragen wird, soll die betriebführende Verwaltung für den Bahnbetrieb auf dem Staatsgebiet der anderen Verwaltung von jeder Staats-, Gemeinde-, Bezirks- und Kreisabgabe befreit sein.

Stuttgart, den 12. Dezember 1908.

Metzger
Königl. Württembergischer Ministerialrat.

Schulz
Grossh. Badischer Ministerialdirektor.

Nachtragsübereinkommen zu dem Staatsvertrag zwischen Württemberg und Baden vom 12. Dezember 1908.

Die Königlich Württembergische und die Grossherzoglich Badische Regierung haben zur Ergänzung des Staatsvertrags vom 12. Dezember 1908 über die Herstellung weiterer Eisenbahnverbindungen zwischen den

beiderseitigen Staatsgebieten Bevollmächtigte ernannt, die folgendes vereinbart haben:

1. Falls die Württembergische Regierung die spätere Fortsetzung der Nebenbahn Bretten—Kürnbach über Sternenfels nach Leonbronn zum Anschluss an die Bahn Lauffen am Neckar—Leonbronn wünschen würde, wird von Baden die Strecke von Kürnbach bis zur badisch-württembergischen Landesgrenze, von Württemberg die weitere Strecke je auf eigene Rechnung hergestellt werden. Im übrigen finden auch auf den Bau und Betrieb der Strecke Kürnbach—Leonbronn die Bestimmungen des Staatsvertrags vom 12. Dezember 1908 und des Schlussprotokolls hiezu sinngemässe Anwendung.

2. Dieses Übereinkommen soll mit dem Staatsvertrag ratifiziert werden und hierauf mit diesem Vertrag gleiche Kraft und Gültigkeit haben.

So geschehen Pforzheim, den fünfzehnten Dezember im Jahre Eintausend neunhundert und zehn.

Schall
Königlich Württembergischer Direktor.

Schulz
Grossh. Badischer Ministerialdirektor und Geheimerat.

170.

MEXIQUE.

Loi sur l'immigration; du 22 décembre 1908, suivi d'un Décret et d'un Règlement du 25 février 1909.

Colleccion de Leyes, decretos, reglamentos y acuerdos. Año 1908/1909.

El Presidente de la República se ha servido dirigirme el decreto quesigue:

„Porfirio Diaz, Presidente Constitucional de los Estados Unidos Mexicanos, á sus habitantes, sabed:

„Que el Congreso de la Unión ha tenido á bien decretar lo siguiente:

„El Congreso de los Estados Unidos Mexicanos, decreta:

Capítulo I.

Disposiciones generales.

Art. 1°. Los extranjeros que vengan á la República, solamente podrán entrar en ella:

I. Por los puertos de altura;

II. Por los lugares fronterizos habilitados para el comercio internacional ó que especialmente designe el Ejecutivo.

Art. 2º. Todo extranjero que pretenda entrar en el territorio nacional, será sometido á reconocimiento, para determinar si puede ser admitido conforme á esta ley.

Igualmente serán reconocidos los mexicanos, con objeto de tomar las precauciones necesarias en el caso de que padezcan enfermedades transmisibles.

Art. 3º. No tendrán derecho á entrar los extranjeros comprendidos en las siguientes clases:

I. Los enfermos de peste bubónica, cólera, fiebre amarilla, meningitis cerebro-espinal, fiebre tifoidea, tifo exantemático, erisipela, sarampión, escarlatina, viruela, difteria, ó de cualquiera otra enfermedad aguda que deba considerarse transmisible, en virtud de declaración del Ejecutivo;

II. Los enfermos de tuberculosis, lepra, beri-beri, tracoma, sarna egipcia ó de cualquiera otra enfermedad crónica que deba considerarse transmisible, en virtud de declaración del Ejecutivo;

III. Los epilépticos y los que padecen enajenación mental;

IV. Los que, por ancianos, raquíticos, deformes, cojos, mancos, jorobados, paralíticos, ciegos, ó de otro modo lisiados, ó por cualesquiera defectos físicos ó mentales, sean inútiles para el trabajo y hayan de convertirse en una carga para la sociedad;

V. Los niños menores de diez y seis años que no vengan bajo la dependencia de otro pasajero, ni consignados á persona residente en el país y que haya de tomarlos á su cargo;

VI. Los prófugos de la justicia y los que hubieren sido condenados por delito que, conforme á las leyes mexicanas, debiera castigarse con pena corporal de más de dos años, con excepción, para unos y otros de los delitos políticos ó meramente militares;

VII. Los que pertenezcan á sociedades anarquistas, ó que propaguen, sostengan ó profesen la doctrina de la destrucción violenta de los gobiernos ó el asesinato de los funcionarios públicos;

VIII. Los mendigos y personas que de cualquier modo vivan de la caridad pública;

IX. Las prostitutas y los individuos que intenten introducirlas en el país para comerciar con ellas ó vivir á sus expensas.

Art. 4º. Los extranjeros comprendidos en las fracciones II, III y IV del artículo anterior, podrán entrar y permanecer en el país por concesión especial del Ejecutivo, siempre que otorguen la caución que éste considere suficiente para garantizar, según fuere el caso, que á sus propias expensas se pondrán en curación, manteniéndose aislados en local adecuado al objeto, ó que no se convertirán en una carga social.

Art. 5º. Si un extranjero que hubiere fijado su residencia en la República y declarado en forma autorizada por la ley su intención de naturalizarse mexicano, hiciere venir á su esposa, á sus padres ó á sus hijos menores, y alguno de ellos padeciere enfermedad de las comprendidas en las fracciones II y III del art. 3.º, el Ejecutivo podrá permitir la

entrada del enfermo, fijando las condiciones á que haya de estar sujeto, en los términos del reglamento de esta ley.

Art. 6°. Los extranjeros que hayan residido en la República por más de tres años y que vuelvan á ella sin haber estado ausentes más de uno, serán equiparados á los mexicanos, para los efectos de esta ley.

Art. 7°. Cuando se encuentre un extranjero que haya entrado durante la vigencia de esta ley y con violación de sus preceptos, el Ejecutivo podrá ordenar que sea remitido al país de su procedencia, si el extranjero no tuviere más de tres años de residencia en la República al ser detenido. La expulsion se hará en buque ó ferrocarril de la misma empresa á que pertenezca aquél en que haya venido al país, y si esto no fuere posible, en otro buque ó ferrocarril á costa de dicha empresa.

Art. 8°. El Ejecutivo podrá suspender, con los requisitos que en cada caso estime convenientes, la expulsión de algún extranjero entrado con violación de esta ley, si á su juicio fuere necesario su testimonio en alguna causa penal.

Art. 9°. Las compañías navieras y las de inmigración, son pecuniariamente responsables de las violaciones de esta ley, cometidas por sus empleados y agentes: en consecuencia, cuando el comandante de un buque ó el médico de á bordo no cubran las multas que se les impusieren, se harán efectivas en bienes de la correspondiente empresa.

Art. 10. Los preceptos de esta ley no son aplicables á los agentes diplomáticos extranjeros, ni á sus familias y séquitos, ni á las personas exceptuadas de la jurisdicción territorial, conforme á las reglas de derecho internacional.

Art. 11. La Secretaría de Gobernación dictará los reglamentos necesarios para el exacto cumplimiento de esta ley, y por medio de acuerdos y disposiciones generales resolverá las dudas que en su aplicación puedan suscitarse.

Capítulo II.

De la entrada de pasajeros por puertos de mar.

Art. 12. A la llegada de un buque que conduzca pasajeros que hayan de desembarcar en la República, se observarán las reglas siguientes:

I. El comandante del buque presentará al inspector de inmigración listas por duplicado, de todos los pasajeros, numeradas ordinalmente y expresando respecto de cada uno el nombre y apellido, sexo, edad, estado civil, nacionalidad, raza, oficio ú ocupación, grado de instrucción, última residencia en el extranjero, puerto de embarque y punto de final destino en el país. Las listas serán cuantas fueren necesarias para que ninguna comprenda más de treinta pasajeros;

II. En las listas se anotará con toda claridad y precisión cuáles sean los pasajeros que vengan enfermos, con expresión de su enfermedad, bajo la fe del médico de á bordo, quien las firmará en unión del comandante, protestando que son exactas las noticias que contienen;

III. Cada pasajero deberá tener una tarjeta que le dará el comandante del buque, expresando el nombre completo de aquél y el número que le corresponda en la lista respectiva, para que pueda ser fácilmente identificado.

IV. También anotará el comandante en las listas, todos los informes que tenga respecto de los pasajeros, para determinar si algunos de ellos no deben ser admitidos en la República;

V. Cada pasajero será sometido á un reconocimiento médico, para investigar si está enfermo ó si tiene algún defecto que motive su expulsión.

El comandante del buque que infringiere cualquiera de las disposiciones de este artículo, ó que dejare de hacer constar en las listas el verdadero estado de personas comprendidas en cualquiera de lo casos que menciona el art. 3º., será castigado administrativamente, con la pena de cien á quinientos pesos de multa. La misma pena se impondrá al médico de á bordo si autorizare con su firma declaraciones falsas.

Art. 13. El desembarque deberá efectuarse, precisamente, en el sitio y á la hora que hubiere señalado el inspector de inmigración, observándose todas las precauciones que éste disponga para impedir cualquier desorden ó que entren personas que no tengan derecho de hacerlo.

El desembarque que se hiciere en sitio ú hora que no sean los señalados por el inspector, se considerará ilegal, y todas las personas que hubieren llegado á tierra serán reembarcadas inmediatamente, aplicándose al comandante del buque la pena de cien á mil pesos de multa, ó la de arresto mayor, ó ambas á juicio del juez.

Art. 14. Cuando lo permitiere la capacidad de la estación sanitaria, á la llegada del buque serán recibidos en ella los pasajeros, para ser sometidos á los reconocimientos que fueren necesarios, á efecto de determinar acerca de su admisión ó de las precauciones á que hayan de sujetarse conforme á esta ley y sus reglamentos.

Los pasajeros que no deban ser admitidos, serán reembarcados desde luego.

Si la estación sanitaria no tuviere capacidad suficiente, los reconocimientos se harán á bordo del buque.

Art. 15. Los pasajeros que á su arribo se encuentren enfermos de alguna enfermedad transmisible de las que expresa la fracción I del art. 3º., serán aislados en el lazareto del puerto, hasta que estén sanos. Los gastos de asistencia y curación serán por cuenta del pasajero mismo y si éste careciere de recursos, de la empresa que lo haya conducido. Cuando se trate de mexicanos insolventes, los gastos serán á cargo de la administración pública.

Art. 16. A los extranjeros que á su arribo se encuentren enfermos de una enfermedad transmisible de las comprendidas en la fracción II del art. 3º., no se les permitirá que desembarquen, á no ser que hayan obtenido concesión especial del Ejecutivo conforme al artículo 4º.

Art. 17. A los mexicanos enfermos de alguna enfermedad transmisible de las que expresa la fracción II del art. 3º., se les permitirá que desembarquen y se les consignará para su aislamiento y curación, al correspondiente hospital, á no ser que otorguen caución suficiente para garantizar que á sus expensas se pondrán en curación y se mantendrán aislados, observando en su caso las disposiciones de las leyes sanitarias.

Art. 18. Cuando llegare á desembarcar algún extranjero que tenga enfermedad de las comprendidas en la fracción II del art. 3º., ó que resulte con alguno de los motivos de exclusión que señalan las fracciones III á IX del mismo artículo, se le hará reembarcar desde luego en el mismo buque y si éste hubiere ya salido, en el buque de la misma empresa que salga inmediatamente después para el país de procedencia, ó en cualquiera otro que salga con ese destino, si la empresa no despachare alguno en el término de un mes.

Los pasajeros que hayan de ser reembarcados permanecerán bajo custodia en la estación sanitaria ó en otro lugar que designe el inspector de inmigración por cuenta de la empresa que los haya transportado á la República.

Art. 19. Cuando el comandante del buque se negare á cumplir una orden para el reembarque de extranjeros, se le impondrá administrativamente una multa de cien á quinientos pesos y el buque no será despachado mientras no se cumpla dicha orden. La empresa pagará también una multa igual á la que se imponga al comandante y á su costa se hará la remisión del extranjero ó extranjeros en otro buque.

Si el buque que condujo á los extranjeros expulsados hubiere ya salido, la orden de reembarque se dará á la empresa que los hubiere transportado y á ella se impondrá la pena fijada en el párrafo anterior, si no obedeciere.

Capítulo III.

De los inmigrantes-trabajadores y de las Empresas de Inmigración.

Art. 20. Para los efectos de esta ley, se considerarán como inmigrantes-trabajadores, los extranjeros que vengan á la República para dedicarse, temporal ó definitivamente, á un trabajo corporal. Bajo la misma denominación se comprende á las personas que constituyan la familia de un inmigrante-trabajador.

Respecto á la entrada de inmigrantes-trabajadores, se observarán las disposiciones de este capítulo y del anterior.

Art. 21. La entrada de inmigrantes-trabajadores, cuando vengan en número mayor de diez en el mismo buque, solamente se permitirá por los puertos señalados al efecto por el Ejecutivo.

Art. 22. Las empresas navieras cuyos buques estén destinados exclusivamente al transporte de inmigrantes-trabajadores, ó que de ordinario traigan más de diez de ellos en cada uno de sus viajes, estarán obligadas:

I. A dotar sus buques de los aparatos y útiles necesarios para hacer su desinfección en términos que aseguren la destrucción de los gérmenes patógenos;

II. A que haya siempre en cada buque un médico de á bordo;

III. A tener en los puertos para donde conduzcan inmigrantes, si el Gobierno no tuviere establecimientos sanitarios con capacidad suficiente, estaciones destinadas al aislamiento y observación de aquéllos y á la asistencia de los que resulten enfermos, con capacidad para alojar el máximum de los que traigan en un viaje y conforme á los reglamentos y acuerdos que dicte el Ejecutivo;

IV. A mantener y atender en todo, por su cuenta y en los términos que ordene el Ejecutivo, á los inmigrantes que hayan transportado, mientras permanezcan en los lazaretos ó lugares de observación;

V. A conducir de regreso en sus buques y por su cuenta, á los inmigrantes que no sean admitidos conforme á esta ley y á los que fueren expulsados por haber entrado ilegalmente, siempre que unos ú otros hayan venido en buques de la empresa;

VI. A tener en la ciudad de México, un representante con facultades bastantes para tratar de los asuntos que se ofrecieren y á quien se puedan hacer efectivas las responsabilidades en que incurra la empresa y otro representante con esas mismas calidades en cada uno de los puertos para donde conduzcan inmigrantes sus buques;

VII. A otorgar caución suficiente, á satisfacción del Ejecutivo, de que cumplirán con las obligaciones que les impone esta ley, y á reponer esa caución siempre que sea necesario.

Art. 23. Las empresas que no dieren cumplimiento á las obligaciones que señalan las fracciones I, II y VII del artículo anterior, serán requeridas por el Ejecutivo para hacerlo, y si no lo verificaren en el término que se les señale, no les será admitido en los puertos mexicanos, buque alguno que traigan con inmigrantes.

Cuando una empresa no cumpliere con las obligaciones que imponen las fracciones IV y V del precedente artículo, se hará efectiva en la cantidad que fuere necesaria, la caución á que se refiere la fracción VII del mismo artículo, ó usando de la facultad económico-coactiva, se exigirá á la empresa el pago de la suma debida, si dicha caución no estuviere constituída ó no fuere bastante.

Art. 24. Cuando un buque traiga mayor número de inmigrantes que el que puedan contener, la estación sanitaria del Gobierno y la que tenga la respectiva empresa, sólo se podrá autorizar el desembarque del número que quepa en dichas estaciones; los demás sufrirán su reconocimiento y, en su caso, el período de observación ó de curación á bordo del buque.

Cuando llegare un buque sin tener estación sanitaria ni haber arreglado disponer de la de otra empresa para sus inmigrantes, y no hubiere estación del Gobierno ó no se pudiere disponer de ella, los inmigrantes

que conduzca permanecerán á bordo y sufrirán en el buque su reconocimiento y, en su caso, el período de observación ó de curación que se les impusiere.

Art. 25. Cuando se trate de buques que traigan en cantidad considerable inmigrantes-trabajadores contratados para el servicio de empresas mineras, industriales ó agrícolas, el Ejecutivo podrá permitir el desembarque en puertos que no sean de los autorizados para la entrada ordinaria de inmigrantes, observándose en cada caso las precauciones que al efecto determine el Ejecutivo para asegurar el cumplimiento de esta ley.

Art. 26. Cuando en un mismo buque vengan pasajeros comunes é inmigrantes-trabajadores, las listas que de estos deban formarse con arreglo al art. 12 serán por separado.

Art. 27. Además de las listas generales que previene el art. 12, se formarán listas especiales de los enfermos.

Art. 28. Cuando no hubiere enfermos infecciosos entre los inmigrantes, ni los hubiere habido durante los últimos diez días de la travesía, ni tampoco hubiere tocado el buque puerto sospechoso ó infestado, los inmigrantes quedarán en completa libertad para entrar é internarse en el país, luego que hubiere terminado su reconocimiento.

Art. 29. Los inmigrantes-trabajadores podrán ser sometidos á un período de observación hasta de diez días, cuando hubiere entre ellos individuos enfermos ó sospechosos de alguna enfermedad transmisible, ó los hubiere habido durante la travesía y, en general, en cualquiera otro caso en que lo disponga el Ejecutivo.

Art. 30. Si durante el período de observación se descubrieren inmigrantes en quienes concurran alguno de los motivos de exclusión enumerados en el art. 3º., serán reembarcados en los términos del art. 18.

Art. 31. Los inmigrantes que no estén vacunados lo serán en la estación sanitaria.

Art. 32. Las estaciones sanitarias de las empresas de inmigración así como el personal que las sirva, estarán á las órdenes y bajo la vigilancia del delegado sanitario del puerto.

Art. 33. Los gastos que se originen en el sostenimiento de las estaciones sanitarias de las empresas de inmigración, sus reparaciones, mueblaje, útiles y enseres, alimentación de los inmigrantes, medicinas, sueldos de médicos y del personal necesario, serán por cuenta de la empresa respectiva.

Capítulo IV.

De la entrada de pasajeros por vías terrestres.

Art. 34. La entrada de pasajeros por vías terrestres se sujetará á las reglas siguientes:

I. El reconocimiento que prescribe el art. 2º., se hará á bordo de los trenes de ferrocarril;

II. El inspector de inmigración recogerá de cada pasajero, por medio de boletas, los datos que enumera la fracción I del art. 12;

III. Para no detener por largo tiempo los trenes de ferrocarril, se enviarán agentes que á bordo de los carros reconozcan á los pasajeros y recojan de ellos los datos necesarios.

IV. Cuando los pasajeros no lleguen por ferrocarril, podrán ser detenidos en los lugares de entrada el tiempo necesario para examinarlos y recojer los datos que previene la fracción I del art. 12;

V. Los trenes de ferrocarril que conduzcan exclusivamente inmigrantes-trabajadores ó en que vengan más de treinta de éstos, serán detenidos á su entrada al territorio nacional, con objeto de que desde luego se haga el reconocimiento de los inmigrantes y se recojan de ellos los datos correspondientes;

VI. Los extranjeros enfermos de alguna enfermedad transmisible, serán excluidos desde luego y sólo se les permitirá la entrada mediante la caución que previene el art. 4º.;

VII. A los extranjeros sospechosos de padecer de una enfermedad transmisible, se les permitirá que permanezcan en el lugar de entrada aislados y en observación, siempre que aseguren el pago de su asistencia.

Los pasajeros que hicieren declaraciones falsas serán castigados administrativamente con multa de cinco á veinticinco pesos ó arresto de tres á quince días.

Art. 35. El inspector de inmigración podrá fijar horas y sitio para la entrada de pasajeros que no vengan por ferrocarril. También podrá fijar horas para la entrada de trenes extraordinarios con pasajeros.

La entrada que se haga á hora ó por sitios no autorizados, será castigada imponiendo á los conductores, maquinistas, cocheros y demás empleados á cuyo cargo esté el tren y á los que hubieren ordenado su entrada, la pena de cien á mil pesos de multa, ó la de arresto mayor, ó ambas á juicio del juez.

Si la entrada no se hubiere hecho por ferrocarril, los pasajeros ilegalmente entrados serán castigados con multa de diez á cien pesos ó con arresto mayor hasta dos meses.

Capítulo V.

De la jurisdicción administrativa en materia de inmigración.

Art. 36. Todo lo relativo á inmigración dependerá de la Secretaría de Gobernación, la que administrará el ramo por medio de los funcionarios y cuerpos siguientes:

I. Inspectores de inmigración, que se establecerán en los puertos y lugares fronterizos por los cuales esté autorizada la entrada de pasajeros procedentes del exterior;

II. Agentes auxiliares que, en los términos que dispongan los reglamentos ó los acuerdos que dicte el Ejecutivo, bajo las órdenes y vigilancia del respectivo inspector, auxiliarán á éste en sus labores, y desempeñarán las funciones que les delegue;

III. Consejos de inmigración, que se establecerán en cada uno de los lugares en que hubiere inspectores y que se compondrán de tres personas especialmente nombradas al efecto, ó si no se hicieren nombramientos especiales, del delegado sanitario, del administrador de la aduana ó jefe de la sección aduanera y de otro empleado federal que de común acuerdo designen los dos expresados.

Art. 37. En los lugares donde no hubiere inspector de inmigración los delegados sanitarios desempeñarán las funciones que á aquel corresponden.

Art. 38. Las resoluciones de los inspectores relativas á admisión, exclusión ó expulsión serán revisadas por los consejos de inmigración siempre que lo pida el mismo individuo interesado, el comandante del buque ó su consignatario, el representante de la empresa que haya conducido al pasajero, ó el delegado sanitario.

Las resoluciones se harán constar por escrito bajo la firma del inspector ó de los miembros del consejo que las dicte.

Art. 39. Corresponde á los inspectores de inmigración imponer las penas administrativas que fija esta ley. Sus determinaciones serán revisadas por la Secretaría de Gobernación, la cual tendrá la facultad de confirmarlas, derogarlas ó modificarlas.

Si las penas fueren pecuniarias se exigirá su inmediato pago y su importe quedará en depósito entre tanto la Secretaría de Gobernación revisa la pena.

Si la pena que deba imponerse fuere corporal, el responsable será detenido inmediatamente, dándose cuenta á la Secraría de Gobernación por telégrafo.

Capítulo VI.

De la jurisdicción penal en lo concerniente á esta ley.

Art. 40. Los tribunales federales son competentes para conocer de todos los casos de violación de la presente ley.

Art. 41. En los lugares en donde no resida juez de distrito, los jueces del fuero común practicarán, en auxilio de la justicia federal, las primeras diligencias y podrán dictar el auto de prisión formal y aun poner el negocio, con autorización del tribunal federal competente, en estado de sentencia. Para este efecto y en todo caso, darán aviso al juez de distrito que corresponda, siempre que tomen conocimiento de un negocio de este género.

Artículo Transitorio.

Se derogan, el art. 49 del Código Sanitario y en general, todas las disposiciones que se opongan á los preceptos de esta ley, que comenzará á regir el primero de marzo de mil novecientos nueve.

J. R. Aspe, diputado presidente. — *Emilio Rabasa,* senador vicepresidente. — *Guillermo Pous,* diputado secretario. — *A. Castañares,* senador secretario.

Por tanto, mando se imprima, publique, circule y se le dé el debido cumplimiento.

Dado en el Palacio del Poder Ejecutivo Federal, en México, á 22 de diciembre de 1908. — *Porfirio Díaz.* — Al C. Ramón Corral, Secretario de Estado y del Despacho de Gobernación. — Presente."

Y lo comunico á usted para su inteligencia y demás fines.

Libertad y Constitución. México, diciembre 22 de 1908.

Corral.

El Presidente de la República se ha servido dirigirme el decreto que sigue:

„Porfirio Díaz, Presidente de los Estados Unidos Mexicanos, á sus habitantes, sabed:

Que, en uso de las facultades que al Ejecutivo conceden la fracción II del art. 1º. y el art. 21 de la Ley de Inmigración de 22 de diciembre de 1908, y para los efectos de las citadas disposiciones, he tenido á bien decretar:

Art. 1º. Se designan como lugares fronterizos autorizados para la entrada de pasajeros en la República, además de los que estén habilitados para el comercio internacional, aquellos en donde se hallen establecidas ó se establezcan en lo sucesivo, secciones aduaneras, mientras esas secciones subsistan.

Art. 2º. Para la entrada de inmigrantes-trabajadores, cuando vengan en número mayor de diez en el mismo buque, quedan autorizados los puertos de Tampico, Tam., y Veracruz, Ver., en el Golfo de México, y los de Guaymas, Son., Manzanillo, Col., Mazatlán, Sin., y Salina Cruz, Oax., en el Océano Pacífico.

Por tanto mando, se imprima, publique, circule y se le dé el debido cumplimiento.

Dado en el Palacio Nacional de México, á 25 de febrero de 1909. — *Porfirio Díaz.* — Al C. Ramón Corral, Secretario de Estado y del Despacho de Gobernación. — Presente.

Y lo comunico á usted para su conocimiento y fines consiguientes.

Libertad y Constitución. México, febrero 25 de 1909.

Corral.

El Presidente de la República ha tenido á bien aprobar el siguiente

Reglamento del servicio de inspección de Inmigrantes en los puertos y fronteras de la República.

Capítulo I.

De la entrada de pasajeros por puertos de mar.

Art. 1º. Si el Delegado Sanitario en el puerto, fuere al mismo tiempo, Inspector de Inmigración, una vez que haya desempeñado a bordo del buque las funciones que determinan el Código Sanitario, el Reglamento de Sanidad Marítima y las demás disposiciones de policía sanitaria, si el buque debiere ser admitido á libre plática, procederá á la inspección de los pasajeros conforme á los artículos siguientes.

Art. 2º. El Inspector recibirá del comandante del buque las listas que previene la frac. I del art. 12 de la Ley de Inmigración y examinará si llenan los requisitos legales y se ajustan á lo dispuesto en el art. 17 de este Reglamento. Si las listas no estuvieren en debida forma, el Inspector ordenará al comandante del buque que proceda á arreglarlas inmediatamente, subsanando los defectos de que adolezcan.

Art. 3º. Arregladas las listas, si hubiere en el puerto estación sanitaria con capacidad bastante para que en ella sean recibidos los pasajeros á efecto de que se les someta á los reconocimientos necesarios para determinar acerca de su admisión, ó de las precauciones á que hayan de sujetarse, el Inspector dispondrá el desembarque de los pasajeros y su translación á la estación sanitaria, dictando las medidas adecuadas para que la operación se ejecute con el orden y la seguridad debidos, conforme al art. 13 de la Ley de Inmigración.

Si no hubiere estación sanitaria con capacidad bastante para los pasajeros que el buque haya traído, el desembarque no se autorizará, sino después de concluido el reconocimiento médico que deberá efectuarse á bordo del buque respecto de los inmigrantes que no cupieren en la estación.

Art. 4º. Sea á bordo del buque ó en la estación sanitaria, según corresponda conforme al artículo anterior, se procederá al reconocimiento médico de cada uno de los pasajeros, para investigar si está enfermo, ó si tiene algún defecto que motive su exclusión.

El reconocimiento se hará llamando á los pasajeros por el orden en que se hallen inscritos en las listas y haciendo su identificación por medio de las tarjetas que deben tener, expedidas por el comandante del buque, conforme á la frac. III del art. 12 de la Ley de Inmigración.

En el reconocimiento médico debe estar presente el médico de á bordo, si lo hubiere, para dar los datos y explicaciones que se le pidan.

Art. 5º. A medida que cada uno de los pasajeros sea reconocido, decidirá el Inspector si es ó no admisible; pero él mismo podrá reformar sus decisiones en virtud de las observaciones que se le hagan ó de los nuevos datos que se le ministren, mientras no se haya terminado el re-

conocimiento de todos los pasajeros, y sin perjuicio de que, aun cuando fuere admitido alguno indebidamente ó por error, se pueda proceder en todo tiempo respecto de él conforme al art. 18 de la Ley de Inmigración.

Art. 6⁰. El Inspector, practicará desde luego, todas las averiguaciones que séan necesarias para determinar acerca de la admisión ó exclusión de los pasajeros.

Art. 7⁰. Una vez terminado el reconocimiento, el Inspector dará al comandante del buque una lista ó nota firmada por él, de los pasajeros excluidos, con expresión de las causas que hayan determinado su exclusión.

Art. 8⁰. Si el reconocimiento se hubiere hecho en la estación sanitaria, una vez terminado, se permitirá la libre salida de los pasajeros admitidos y se ordenará el inmediato reembarque de los excluidos.

Si el reconocimiento se hubiere hecho á bordo, una vez terminado, el Inspector designará el lugar y la hora en que deba hacerse el desembarque de los pasajeros admitidos y dictará las medidas necesarias para evitar que desembarquen pasajeros que hayan sido excluidos.

Art. 9⁰. Si el Inspector de Inmigración no fuere el Delegado Sanitario, cuando arribe un buque que traiga pasajeros, se dirigirá á su bordo en compañía de dicho Delegado, y una vez que éste haya desempeñado sus funciones y declarado que es de admitirse el buque á libre plática, conforme á las disposiciones sanitarias, el Inspector procederá en los mismos términos que se establecen en los artículos anteriores.

Art. 10⁰. El desembarque de pasajeros será en todo caso presenciado por el Inspector de Inmigración ó por sus agentes auxiliares, requiriendo, si lo considerare necesario, el auxilio de la policía del puerto.

Art. 11. Los pasajeros que á su arribo se encuentren enfermos de alguna enfermedad transmisible de las que expresa la frac. I del art. 3⁰. de la Ley de Inmigración, serán aislados en el lazareto del puerto hasta que estén sanos.

Antes de ser transladados al lazareto, cada uno de los pasajeros, ó si éstos carecen de recursos, la empresa que los haya conducido, deberá depositar en la oficina de Hacienda que determine el Inspector de Inmigración, la cantidad en que provisionalmente se fijen los gastos de asistencia y de curación que, por regla general, se estimarán á razón de un peso diario por el número de días que para cada enfermedad se fija en la siguiente tabla:

Cólera y fiebre amarilla	10	días.
Difteria, erisipela, meningitis y sarampión .	15	„
Fiebre tifoidea, tifo exantemático y viruela .	21	„
Peste bubónica	30	„
Escarlatina	40	„

Tratándose de enfermedades no comprendidas en la precedente tabla, el Inspector fijará prudencialmente el tiempo probable que haya de permanecer el enfermo en el lazareto.

Art. 12. Si no se hiciere el depósito ó no se garantizare su constitución á satisfacción del Inspector, no se permitirá el desembarque de los enfermos, ó si ya se hubiere hecho, se ordenará su inmediato reembarque.

Art. 13. Cuando se trate de mexicanos insolventes, no será necesario depósito ni garantía alguna, y los gastos serán á cargo de la administración pública.

Art. 14. Cuando un extranjero que á su arribo se encuentre enfermo de una enfermedad transmisible de las comprendidas en la frac. II del art. 3°. de la Ley de Inmigración, solicite desembarcar por concesión especial del Ejecutivo y garantizando que á sus propias expensas se pondrá en curación y se mantendrá aislado en local adecuado al objeto, el Inspector transmitirá por telégrafo la petición á la Secretaría de Gobernación, exponiendo el caso, expresando cuál sea la caución que el pasajero ofrezca, la población y el establecimiento ó casa en que haya de permanecer y emitiendo, además, su opinión acerca de si es ó no de hacerse la concesión.

Art. 15. Cuando desembarquen mexicanos enfermos de alguna enfermedad transmisible de las que expresa la frac. II del art. 3°. de la Ley de Inmigración y no quieran ser consignados para su aislamiento y curación al correspondiente hospital, se procederá en los mismos términos que establece el artículo anterior.

Art. 16. Cuando llegare á desembarcar algún extranjero que tenga enfermedad de las comprendidas en la frac. II del art. 3°. de la Ley de Inmigración ó que resulte con alguno de los motivos de exclusión que señalan las fracs. III á IX del mismo artículo, tan luego como el Inspector tuviere noticia del hecho, sea por aviso de otra autoridad ó por cualquiera otro medio, hará comparecer al extranjero de quien se trate y, después de sujetarlo al correspondiente interrogatorio y oyendo lo que el mismo extranjero tenga que exponer, resolverá si es de acordarse el reembarque, haciendo constar todo en una acta breve y sucinta.

Si la resolución fuere ordenando el reembarque, el extranjero de quien se trate quedará sometido á la vigilancia de la policía y, si el Inspector lo considerare necesario, será detenido mientras se procede á su reembarque.

De la resolución que se dicte ordenando el reembarque del extranjero, se dará aviso á la empresa que lo haya conducido á la República.

Queda comprendido en las disposiciones de este artículo el caso del pasajero que haya sido admitido en calidad de mexicano y que resulte ser extranjero.

Art. 17. Las listas de pasajeros que deben fomar y presentar los comandantes de los buques se ajustarán, en cuanto á su forma, á las reglas siguientes:

I. El título será: *Lista de pasajeros formada en cumplimiento de lo prevenido en la fracción I del art. 12 de la Ley de Inmigración, de 22 de diciembre de 1908.—Vapor .... que zarpó del puerto de .... el ...... de 19 ... y fondeó en el puerto de .... el .... de 19 ...*

II. El anverso de la lista estará dividido en trece columnas, que respectivamente llevarán los siguientes títulos:

1. Número de orden.—2. Nombre y apellido.—3. Sexo.—4. Edad.— 5. Estado civil. — 6. Nacionalidad. — 7. Raza.—8. Oficio ú ocupación. — 9. Sabe leer y escribir.—10. Ultima residencia en el extranjero.—11. Puerto de embarque en el extranjero.—12. Lugar de final destino en México.— 13. Observaciones.

III. Al reverso llevará cada lista las siguientes declaraciones, que serán firmadas respectivamente por el comandante del buque ó por el oficial que haga sus veces, y por el médico:

„Declaración del comandante del buque. — *Yo*. . . . . (Dígase aquí si el que firma la declaración es el capitán, patrón ó piloto del buque, ó un oficial subalterno accidentalmente encargado del mando) . . . . *bajo formal protesta de decir verdad, hago constar que he examinado personalmente á todos y cada uno de los pasajeros mencionados en la presente lista y que he ordenado al médico de dicho vapor, ó al médico empleado por los propietarios del mismo, que examine á cada uno de dichos pasajeros, y que, tanto por mi inspección personal, cuanto por el informe del médico, creo que ninguno de dichos pasajeros está comprendido en las causas de exclusión enumeradas en el art. 3º. de la Ley de Inmigración de 22 de diciembre de 1908, ó padece enfermedad de las comprendidas en dicho artículo, á no ser que en la misma lista se haya hecho constar así expresamente, y que los datos asentados son exactos y verdaderos.*—(Firma.)“

„Declaración del médico.— *Yo* . . . . (Dígase aquí si el que firma la declaración es el médico de abordo del buque ó ha sido empleado por los propietarios para reconocer á los pasajeros) . . . . *bajo formal protesta de decir verdad, declaro: que tengo . . . . . años de práctica como médico cirujano y que estoy autorizado para ejercer mi profesión por* . . . . *; que he examinado personalmente á cada uno de los pasajeros enumerados en la presente lista y que, conforme á mi leal saber y entender, ninguno de dichos pasajeros se encuentra comprendido en los casos de exclusión que determina el art. 3º. de la Ley de Inmigración de 22 de diciembre de 1908, ni padece enfermedad de las expresadas en dicho artículo, á no ser que en la misma lista se haya hecho constar así expresamente.*—(Firma.)“

IV. También al reverso llevarán las listas las siguientes explicaciones:

„Columna 2. Nombre y apellido. *Escríbase con todas sus letras.*

Columna 3. Sexo. *Usense solamente las letras h (hombre) ó m (mujer).*

Columna 4. Edad. *Poner años cumplidos. La columna de meses se destina para los niños menores de un año.*

Columna 5. Estado civil. *Deben usarse las designaciones* soltero, casado, viudo. *Los divorciados, según las leyes de los países en que el divorcio deja en libertad á las personas para contraer nuevo matrimonio, deberán inscribirse como* divorciados. *Estos datos sólo se asentarán para los hombres mayores de catorce años y para las mujeres mayores de doce.*

Columna 6. Nacionalidad. *La que tenga el pasajero por nacimiento ó naturalización.*

Columna 7. Raza. *Blanca, negra, amarilla, etc.*

Columna 8. Oficio ú ocupación. *Es de positivo interés precisar de una manera clara la ocupación de las personas que vienen al país, y cuando el pasajero no declare una profesión definida y al contestar la pregunta lo haga con términos vagos, como jornalero, negociante, etc., que no especifiquen la naturaleza del trabajo en que se ocupa, se deberá auxiliarlo con preguntas accesorias para que, si es jornalero, precise si es peón de mano, peón agricultor, peón minero, etc.; y si es negociante, diga si es industrial, comerciante al por mayor, vendedor ambulante, etc.*

Columna 9. Sabe leer, escribir. *Sí ó No. Para los niños menores de doce años, que no sepan, bastará una raya* ——————

Columna 10. Ultima residencia en el extranjero. *Anótese el lugar de procedencia y también el país á que pertenece.*

Columna 11. Puerto de embarque en el extranjero. *Anótese el puerto y también el país á que pertenece.*

Columna 12. Lugar de final destino en México. *Dígase el lugar de la República Mexicana en que intente radicarse, indicando el Estado á que pertenezca.*

Columna 13. Observaciones. *Anótese todo lo que se estime necesario, especialmente las causas de exclusión que enumera el art. 3°. de la Ley de Inmigración de 22 de diciembre de 1908."*

V. También se insertará al reverso de cada lista el texto íntegro del art. 3° de la Ley de Inmigración.

VI. Los títulos, declaraciones y explicaciones á que se refieren las fracciones anteriores, así como los datos relativos á cada pasajero serán escritos en castellano, pero las empresas navieras que quieran, podrán ponerlos también en inglés ó en francés.

VII. Cada lista llevará su número de orden y no comprenderá más de treinta pasajeros.

Art. 18. Las listas á que se refiere el artículo anterior serán formadas y presentadas por el comandante del buque en dos ejemplares exactamente iguales.

Art. 19. En cada puerto serán examinados los pasajeros que hayan de desembarcar en él, y si el buque condujere pasajeros para otro puerto mexicano, su examen se reservará para aquel en que hayan de desembarcar.

En consecuencia, en el puerto de desembarque se hará siempre el reconocimiento, aun cuando el buque haya hecho escala en otro puerto mexicano.

Art. 20. Los pasajeros que arriben á un puerto habiéndose embarcado en otro puerto mexicano, no quedan sujetos á examen ni requisito alguno, á no ser los de policía sanitaria, en cuanto puedan serles aplicables, pues dichos pasajeros no deben ser considerados como inmigrantes.

Art. 21. Los Inspectores remitirán un ejemplar de las listas correspondientes á los pasajeros que hayan desembarcado en cada quincena, el primer

día útil de la quincena siguiente (por regla general los días 16 y 1°. del mes), con oficio en que expresen el número de listas remitidas y si se remiten adjuntas con el oficio ó en paquete separado, y anotando en este caso en la cubierta del paquete el número y fecha del oficio relativo.

Los otros ejemplares se conservarán por orden cronológico y en forma que facilite su consulta en el archivo de la Inspección de Inmigración, hasta que se autorice por la Secretaría de Gobernación que sean destruidos.

Cuando durante alguna quincena no hubiere habido entrada de pasajeros, el Inspector dará aviso de ese hecho á dicha Secretaría el primer día útil de la quincena siguiente por medio de oficio.

Art. 22. Cuando los Inspectores lo consideren necesario para hacer obedecer sus resoluciones, las comunicarán á los jefes de puerto, pidiendo que les presten su auxilio y hagan cumplir lo que hubieren ordenado.

Capítulo II.

De la entrada de inmigrantes-trabajadores.

Art. 23. La empresa naviera cuyos buques estén destinados exclusivamente al transporte de inmigrantes-trabajadores ó que de ordinario traigan más de diez de ellos en cada uno de sus viajes y que por lo mismo estén sujetas á lo preceptuado en el art. 22 de la Ley de Inmigración, deberán dar aviso al Inspector de cada uno de los puertos para los que traigan inmigrantes-trabajadores, de cuáles sean las estaciones destinadas al aislamiento y observación de los inmigrantes que conduzcan y á la asistencia de los que resulten enfermos, y cuál sea la capacidad de dichas estaciones. También deberán informar con toda oportunidad al respectivo Inspector de quienes sean los representantes que tenga al empresa en la ciudad de México y en el puerto ó puertos que toquen sus buques, conforme á la frac. VI del art. 22 de la Ley.

El Inspector comunicará á la Secretaría de Gobernación los avisos ó informes que se le den por las empresas, emitiendo su opinión acerca de si están satisfactoriamente cumplidos los preceptos legales.

Art. 24. Antes de procederse á la construcción ó adaptación de las estaciones destinadas al aislamiento y observación de los inmigrantes y á la asistencia de los enfermos, las empresas presentarán al Inspector de Inmigración los planos y proyectos de dichos establecimientos, á efecto de que, oyendo al Consejo Superior de Salubridad y emitiendo su opinión también el Inspector, la Secretaría de Gobernación resuelva si es de autorizarse el proyecto de construcción ó adaptación, ó cuáles sean las modificaciones que deban hacérsele.

Art. 25. Las empresas darán aviso directo á la Secretaría de Gobernación de quién sea su representante en la ciudad de México y acreditarán haberle conferido poder con facultades bastantes para tratar los asuntos que se ofrecieren y haberlo expensado para que se le puedan hacer efectivas las responsabilidades en que incurriere la empresa.

Art. 26. Para otorgar la caución que previene la frac. VII del art. 22 de la Ley de Inmigración con el objeto de garantizar el cumplimiento de-

las obligaciones que les impone dicha Ley, las empresas ocurrirán directamente á la Secretaría de Gobernación, informándole acerca de las operaciones que están practicando ó se proponen practicar y especificando los puertos que han de tocar sus buques, el número de éstos, si son propios ó fletados, su capacidad, los puertos extranjeros de donde hayan de traer los inmigrantes, la raza y nacionalidad de éstos, así como la ocupación á que se han de dedicar.

En vista de dicha manifestación y de los demás datos que se tengan, la Secretaría resolverá cuál haya de ser la caución que se otorgue, y el monto de ella.

Art. 27. La inspección de los inmigrantes-trabajadores se hará en lo general, en los términos prevenidos en el capítulo anterior, con las modificaciones que se expresan en los artículos siguientes.

Art. 28. Una vez terminada la visita sanitaria del buque y declarado que éste puede ser admitido á libre plática, el Inspector deberá investigar si el buque está dotado de los aparatos y útiles necesarios para hacer su desinfección en términos que aseguren la destrucción de los gérmenes patógenos y si hay médico á bordo. Si encontrare satisfechos ambos requisitos, procederá á la revisión de las listas y á las demás operaciones ulteriores.

Si encontrare que no hay los aparatos y útiles necesarios para la desinfección ó que no hay médico á bordo, lo comunicará á la Secretaría de Gobernación, si se tratare del primer viaje que hiciere el buque. Si se estuviere dentro del término señalado por la Secretaría de Gobernación, conforme al art. 23 de la Ley de Inmigración, para dotar el buque de aparatos y útiles de desinfección y para poner médico á bordo, no se dictará providencia alguna; pero si ya se hubiere prevenido á la empresa que cumpla con esos requisitos y hubiere trascurrido el término que se le haya fijado, no se admitirá el buque y se le dará orden de que inmediatamente se haga á la mar con todo su pasaje.

Art. 29. Para el cumplimiento de lo prevenido en el art. 24 de la Ley de Inmigración, el Inspector dictará desde luego las resoluciones que sean necesarias; pero si la empresa no estuviere conforme con alguna de ellas, podrá reclamar ante la Secretaría de Gobernación y por conducto del Inspector, quien á costa de la empresa trasmitirá su reclamación por telégrafo, informando lo que estime conveniente.

Art. 30. Los inmigrantes-trabajaderos podrán ser sometidos á un período de observación hasta de diez días, cuando hubiere entre ellos individuos enfermos ó sospechosos de alguna enfermedad transmisible ó los hubiere habido durante la travesía y, en general, en cualquiera otro caso en que lo disponga la Secretaría de Gobernación.

A este efecto, si el Inspector no tuviere instrucciones especiales que se le hayan comunicado previamente para ordenar la observación de los inmigrantes y á su juicio la creyere procedente, lo comunicará por telégrafo á la Secretaría de Gobernación, informándole detalladamente de las circunstancias, y entretanto se recibe la contestación de la Secretaría, los inmigrantes quedarán provisionalmente en observación.

Art. 31. Las empresas navieras deberán avisar á la Secretaría de Gobernación, por lo menos con ocho días de anticipación, la fecha en que segura ó probablemente habrán de llegar á algún puerto mexicano los buques que conduzcan exclusivamente inmigrantes-trabajadores ó en que vengan cien ó más de ellos.

La falta de dicho aviso con la oportunidad debida, ameritará que el buque sea detenido el tiempo necesario para que llegue al puerto el personal que se considere conveniente enviar para la inspección de los inmigrantes.

Art. 32. Cada vez que llegue un buque conduciendo exclusivamente inmigrantes-trabajadores ó con más de cien de ellos, el Inspector de Inmigración lo comunicará por telégrafo á la Secretaría de Gobernación, informándole del número de inmigrantes, su nacionalidad y raza, del estado sanitario del buque y todo lo demás que estime de interés.

Art. 33. Las listas correspondientes á inmigrantes-trabajadores no serán remitidas á la Secretaría de Gobernación el primer día útil de la quincena siguiente, como se dispone en el art. 21, sino que lo serán el mismo día que se haya terminado el reconocimiento de los inmigrantes ó, á más tardar, al día siguiente.

Art. 34. Los Delegados Sanitarios de los puertos vigilarán que las estaciones sanitarias de las empresas de inmigración se encuentren en buen estado de seguridad y de servicio, así como que su personal sea competente y esté en condiciones de desempeñar satisfactoriamente sus funciones.

Cada mes rendirán los Delegados un informe á la Secretaría de Gobernación acerca del estado en que se encuentren dichas estaciones, sin perjuicio de que en el curso del mes den aviso oportuno de cualquier suceso de importancia.

Capítulo III.

De la entrada de pasajeros por vías terrestres.

Art. 35. Cada uno de los pasajeros que lleguen á la República por las fronteras terrestres cruzando la línea divisoria con los Estados Unidos del Norte, Guatemala ú Honduras Británica, deberá ser examinado en los términos que disponen la Ley de Inmigración y este Reglamento.

Solamente se exceptúan de esta disposición:

I. Los residentes en las poblaciones extranjeras fronterizas que vengan á poblaciones fronterizas mexicanas, con el propósito de no permanecer en ellas por más de veinticuatro horas;

II. Los cocheros, mozos, postillones, maquinistas, conductores y demás individuos del servicio de los trenes ó vehículos en que lleguen pasajeros á la República, siempre que aquellos individuos no hayan de quedarse en el país, sino que hayan de volver al extranjero con los vehículos en cuyo servicio están empleados;

III. Los individuos que procedan de algún lugar de la República y que lleguen á otro lugar de la misma, aun cuando hayan atravesado territorio extranjero, siempre que su permanencia en dicho territorio haya sido de simple tránsito para llegar á territorio mexicano.

Art. 36. El reconocimiento de los pasajeros llegados por ferrocarril, que se debe hacer conforme al art. 2°. y á la frac. I del art. 34 de la Ley de Inmigración, se comenzará inmediatamente después de la llegada del tren y se procurará que termine durante el tiempo que el tren permanezca detenido por las operaciones del despacho aduanero ó por las necesidades de servicio del mismo ferrocarril, y que no se detenga, á menos que sea absolutamente indispensable, más tiempo que el señalado en el correspondiente horario. Si el reconocimiento y la recolección de los datos á que se refieren la frac. I del art. 12 y la II del art. 34 de la Ley, no estuvieren terminados á la hora señalada para la salida del tren, se permitirá dicha salida y se enviará un agente que continúe tomando los datos que aun falten y desempeñando sus funciones á bordo del tren, hasta alguna de las estaciones inmediatas.

Art. 37. Cuando, ya dentro del país, el agente que conforme á la parte final del artículo anterior, se hubiere enviado para la inspección de los pasajeros, descubra que alguno de éstos tiene motivo para su exclusión, investigará cuál sea el lugar á donde se dirige y por telégrafo dará inmediato aviso al respectivo Inspector y á la Secretaría de Gobernación, expresando el nombre del pasajero, su nacionalidad, las señas necesarias para su identificación y el lugar á donde se dirige. La Secretaría de Gobernación dictará las medidas que estime conducentes para el cumplimiento de la ley.

Art. 38. Para facilitar la ministración de los datos que debe dar cada pasajero, habrá boletas impresas con los respectivos cuestionarios redactados en castellano, en francés ó en inglés, y á cada pasajero se dará boleta en el idioma que indique. Cuando un pasajero no entendiere el castellano ni tampoco el inglés ó el francés, ni otro idioma que conozcan el Inspector ó sus agentes, se buscará á bordo del tren un intérprete, y si no se lograre por ese medio entenderse con el pasajero, éste será provisionalmente excluido, reservando resolver definitivamente acerca de su admisión para cuando pueda llenar su boleta y dar los datos que se le pidan.

Art. 39. Las boletas en que deben asentarse los datos ministrados por los pasajeros se sujetarán, en cuanto á su forma, al siguiente modelo:

„Lugar de llegada ....
Fecha de llegada ....
Ferrocarril, vehículo ó medio de transporte .

Cuestionario.

1. Nombre y apellido ....
2. Sexo ....
3. Edad ....
4. Estado civil.......................
5. Nacionalidad ....
6. Raza ....
7. Oficio ú ocupación..................

8. Grado de instrucción { Sabe leer .... / Sabe escribir ....
9. Ultima residencia en el extranjero .....
10. Lugar de procedencia en el extranjero ..
11. Lugar de final destino en México .....

Nota.—Léase con mucho detenimiento la explicación á la vuelta."

Al reservo llevarán lo siguiente:

„Lugar de llegada.—Poner el lugar por donde ha llegado el pasajero.

Fecha de llegada.—Poner el día, mes y año de la llegada del pasajero.

Ferrocarril, vehículo ó medio de transporte.—Escribir el nombre del ferrocarril, tranvía, etc., poniendo también *á caballo* ó *á pie* á los que así lleguen.

1. *Nombre y apellido.* Escríbase con todas sus letras.

2. *Sexo.* Usense solamente las letras h (hombre) ó m (mujer).

3. *Edad.* Poner años cumplidos. Los meses sólo se anotarán para los niños menores de un año.

4. *Estado civil.* Deben usarse las designaciones *soltero, casado viudo.* Los divorciados según las leyes de los países en que el divorcio deja en libertad para contraer nuevo matrimonio, deberán inscribirse como *divorciados.* Estos datos sólo se tomarán para los hombres mayores de 14 años y las mujeres mayores de 12.

5. *Nacionalidad.* La que tenga el pasajero por nacimiento ó naturalización.

6. *Raza.* Blanca, negra, amarilla, etc.

7. *Oficio ú ocupación.* Es de positivo interés precisar de una manera clara la ocupación de las personas que vienen al país; y cuando el pasajero no declare una profesión definida y al contestar la pregunta lo haga en términos vagos, como jornalero, negociante, etc., que no especifiquen la naturaleza del trabajo en que se ocupa, se deberá auxiliarlo con preguntas accesorias para que, si es jornalero, precise si es peón de mano, peón agricultor, peón minero, etc.; y si es negociante, diga si es industrial, comerciante al por mayor, vendedor ambulante, etc.

8. *Grado de instrucción. Sabe leer, escribir.* Sí ó No. Para los niños menores de 12 años bastará una raya ————

9. *Ultima residencia en el extranjero.* Anótese el lugar y también el país.

10. *Lugar de procedencia en el extranjero.* Anótese el lugar de donde salió el pasajero y también el país á que pertenece.

11. *Lugar de final destino en México.* Dígase el lugar de la República en que intente radicarse.

Art. 40. Cada pasajero que llegue, inclusos los niños de pecho, será examinado personalmente, llenándose la correspondiente boleta. Cuando se trate de niños que no puedan contestar directamente, los datos serán ministrados por los padres ó personas que acompañen al niño.

Art. 41. Los Inspectores sacarán diariamente, en esqueletos iguales á los usados en los originales, copias de las boletas correspondientes á

los pasajeros que hayan entrado y las cotejarán debidamente para subsanar desde luego los errores en que se haya incurrido.

Las copias correspondientes á cada quincena serán remitidas á la Secretaría de Gobernación el primer día útil de la quincena siguiente (por regla general, los días 16 y 1°. del mes), con oficio en que se exprese el número de boletas remitidas, y si se remiten adjuntas con el oficio ó en paquete separado, y anotando, en este caso, en la cubierta del paquete el número y fecha del oficio relativo.

Los originales se conservarán por orden cronológico y en forma que facilite su consulta en el archivo de la Inspección de Inmigración, hasta que se autorice por la Secretaría de Gobernación que sean destruidos.

Cuando durante alguna quincena no hubiere entrado pasajero alguno, el Inspector dará aviso de ese hecho á la Secretaría de Gobernación el primer día útil de la quincena siguiente, por medio de oficio.

Art. 42. El pasajero que por cualquiera causa se niegue á dar los datos que previene la Ley ó que los dé notoriamente falsos, quedará provisionalmente excluido; pero después se podrá acordar su admisión, si ministra dichos datos ó los rectifica debidamente y de ellos aparece que es admisible.

Art. 43. En cada una de las poblaciones fronterizas, el respectivo Inspector de Inmigración determinará los sitios por donde pueda hacerse la entrada de pasajeros que no vengan por ferrocarril y las horas en que dicha entrada pueda verificarse, sujetándose á las reglas siguientes:

I. Se procurará no entorpecer ni hacer molesto el tráfico sobre la línea fronteriza, sino en lo indispensable para asegurar la vigilancia;

II. Todos los sitios en que haya puentes destinados al tráfico internacional, ó por donde pasen carreteras destinadas á dicho tráfico, serán designados por los Inspectores, á menos de motivos especiales y poderosos en contrario;

III. Los Inspectores comunicarán todas las determinaciones que tomen conforme á este artículo á la Secretaría de Gobernación, la cual podrá en todo tiempo modificarlas ó revocarlas.

Art. 44. Durante las horas en que esté autorizada la entrada de pasajeros habrá en los sitios designados para verificarla, algún agente que vigile, y siempre que llegue algún pasajero que no se proponga salir de nuevo del territorio nacional antes de veinticuatro horas, lo presentará al Inspector de Inmigración á efecto de que se le sujete al reconocimiento legal y se le tomen los datos prevenidos por la Ley.

Art. 45. En todos los lugares destinados á la entrada de pasajeros se pondrán letreros ó señales que lo indiquen claramente, y tanto en esos lugares como en todos los demás que se crea conveniente de la línea fronteriza, se pondrán avisos haciendo saber que no se permite la entrada de pasajeros procedentes del exterior, sino exclusivamante á las horas y por los sitios autorizados, y que, en consecuencia, todo el que entre á hora ó por sitio no autorizado queda sujeto á las penas de la Ley.

En las fronteras con los Estados Unidos y con la Colonia de Belice ú Honduras Británica, los letreros y avisos se pondrán en español y en inglés.

Art. 46. En el caso de entrada á hora ó por sitios no autorizados, el Inspector de Inmigración detendrá á los responsables é inmediamente los consignará á disposición del respectivo juez, á efecto de que se les impongan las penas de ley.

Art. 47. Los Inspectores de Inmigración, tanto por sí mismos como por medio de sus agentes auxiliares ó de la policía local, procurarán vigilar á los pasajeros que habiendo entrado con el carácter de excursionistas y para salir del territorio nacional inmediatamente, permanezcan en él; y cuando se encontrare que concurre en el pasajero alguna de las circunstancias de exclusión determinadas en la Ley, se procederá de conformidad con lo prevenido en el art. 7º. de la misma.

Art. 48. Los Inspectores de Inmigración y sus agentes procurarán en todo caso obrar de acuerdo con los empleados fiscales del servicio aduanero, á efecto de no entorpecer sus funciones, y cuando lo consideren necesario, requerirán su auxilio para el mejor desempeño de las atribuciones que les asignan la Ley de Inmigración y el presente Reglamento.

Capítulo IV.

Del ejercicio de la jurisdicción administrativa en materia de inmigración.

De los Inspectores y de los Consejos de Inmigración.

Art. 49. Además de los Inspectores de Inmigración y de los agentes auxiliares que sean nombrados para residir en lugares fijos, podrán ser nombrados Inspectores y agentes que no deban tener residencia fija, sino que desempeñen sus funciones en el lugar á que en cada caso sean destinados por la Secretaría de Gobernación.

Los Inspectores, cuando á juicio de la Secretaría no sean necesarios sus servicios en funciones directamente relacionadas con la inmigración, tendrán á su cargo la inspección de las delegaciones sanitarias y de los establecimientos dependientes de ellas, tales como estaciones sanitarias, lazaretos y estufas de desinfección, y también de sus embarcaciones y demás dependencias. Estas funciones sólo serán desempeñadas mediante órdenes expresas y especiales de la Secretaría.

Art. 50. En los lugares donde no se encontrare presente algún Inspector de Inmigración, el Delegado Sanitario desempeñará las funciones que á aquél corresponden.

Art. 51. En las poblaciones fronterizas los Agentes Sanitarios desempeñarán, en materia de inmigración, las mismas funciones que en la Ley y en este Reglamento se asignan á los Delegados Sanitarios en los puertos.

Art. 52. Donde no hubiere Delegado Sanitario directamente dependiente del Consejo Superior de Salubridad, desempeñarán sus funciones y, en consecuencia, también las de Inspectores de Inmigración, los administra-

dores de las respectivas aduanas marítimas ó fronterizas, ó los jefes superiores de las secciones aduaneras.

Art. 53. Tan luego como se presenten en un lugar á desempeñar sus funciones un Inspector de Inmigración ó un Delegado Sanitario, deberán avisarlo al administrador de la aduana ó al jefe de la sección aduanera, en su caso, para que estos cesen en las funciones de Inspector, les comuniquen los informes que sean procedentes, y les entreguen los expedientes en giro.

Art. 54. Es deber de los Inspectores de Inmigración, de los funcionarios que hagan sus veces y de los agentes auxiliares:

I. Evitar á los pasajeros toda molestia que no sea necesaria para el cumplimiento de la Ley de Inmigración, de este Reglamento y de las demás disposiciones que se dictaren;

II. Tratar con cortesía á los pasajeros, absteniéndose de toda clase de rudeza ó grosería, especialmente con las personas del sexo femenino, y practicar sus averiguaciones con la decencia y moderación convenientes, para no causar ofensa alguna.

Art. 55. Toda persona que considere tener motivo de queja contra los Inspectores de Inmigración ó sus agentes auxiliares, podrá ocurrir directamente á la Secretaría de Gobernación, poniendo en su conocimiento los hechos, ó podrá hacerlo por conducto de los mismos Inspectores, quienes bajo pena de suspensión en sus funciones, hasta por un mes, y de destitución, en caso de reincidencia, deberán dar á los escritos de queja curso inmediato, informando acerca de su contenido.

Art. 56. En caso de que el Inspector ó sus agentes sean desobedecidos ú ofendidos por algún pasajero, ó tengan con él dificultad que importe la comisión de un delito ó falta, ó que por cualquier motivo exija la intervención de la autoridad, solicitarán desde luego el auxilio de la policía local, dirigiéndose á ella verbalmente, y dando á conocer su carácter de empleados federales.

Art. 57. Las resoluciones de los Inspectores relativas á admisión, exclusión ó expulsión, pueden ser reclamadas por el mismo inmigrante interesado, el comandante ó el consignatario del buque, el representante de la empresa que haya conducido al inmigrante ó el Delegado Sanitario.

La queja ó solicitud de revisión se formulará por escrito, bajo la firma del reclamante, y se presentará á cualquiera de los miembros del respectivo Consejo de Inmigración, el mismo día en que haya sido dictada la resolución que se reclame ó dentro de los dos días siguientes.

Art. 58. En cada uno de los puertos ó lugares autorizados para la entrada de pasajeros, se organizará un Consejo de Inmigración, en los términos preceptuados en la frac. III del art. 36 de la Ley de Inmigración.

Cuando el Delegado Sanitario ó el empleado que haga sus veces esté funcionando como Inspector de Inmigración, no entrará á formar parte del Consejo, y éste se compondrá de los funcionarios que al efecto designe la Secretaría de Gobernación.

El Delegado Sanitario ó el empleado que haga sus veces, en los puertos, y los Agentes Sanitarios, los administradores de las aduanas y los jefes de las secciones aduaneras, en las poblaciones fronterizas, comunicarán á la Secretaría de Gobernación la instalación de los respectivos Consejos y cualesquiera cambios que ocurran en su personal.

Art. 59. Los Consejos nombrarán, de entre sus individuos, un presidente y un secretario, que desempeñarán las funciones ordinarias que á dichos cargos corresponden.

Art. 60. Los Consejos procederán, en los casos que sean sometidos á su revisión, de una manera breve y sumaria, limitándose á los siguientes trámites: queja ó solicitud de revisión del acto, que será formulada por escrito y firmada por el reclamante; audiencia verbal dentro de las veinticuatro horas siguientes á la presentación de la queja ó solicitud, del reclamante y del funcionario que hubiere dictado la resolución, quienes serán citados para ese efecto, designándoles lugar y hora.

El Consejo pronunciará su decisión inmediatamente después de terminada la audiencia de la persona ó personas que hubieren concurrido, ó pasada la hora que para ella se hubiere fijado, si nadie se hubiese presentado, á menos que necesitare investigar algunos hechos, pues entonces tendrá para ello el término de cuarenta y ocho horas, dentro del cual podrá hacer las averiguaciones que estime prudentes conforme al art. 64.

Art. 61. De los procedimientos de los Consejos se levantarán actas en que muy lacónicamente se hagan constar los hechos y la resolución dictada, bajo la firma de todos los miembros del Consejo.

Se remitirá á la Secretaría de Gobernación una copia del expediente formado con la queja ó solicitud de revisión y el acta de los respectivos procedimientos del Consejo.

Art. 62. Los Inspectores, y, en su caso, los Consejos de Inmigración se comunicarán con la Secretaría de Gobernación por medio de oficios; pero siempre que á su juicio fuere necesario por la naturaleza misma del asunto ó por algún motivo especial, ó por lo menos fuere conveniente para el buen servicio, lo harán por telégrafo.

Todos los telegramas que se dirijan serán confirmados por medio de oficio el mismo día que hayan sido despachados, ó á más tardar, al siguiente.

Capítulo V.

Disposiciones generales.

Art. 63. Salvo disposición especial en contrario, los Inspectores de Inmigración apreciarán en conciencia las pruebas que tengan de los hechos que deban tomar en consideración en sus decisiones, y dichas pruebas no será necesario que reunan todas las condiciones de las jurídicas, bastando referencias de personas honorables y dignas de crédito, documentos ó papeles que el pasajero traiga consigo, tales como pasaportes, cartas ó giros y aun las simples presunciones.

Art. 64. Los Inspectores, cuando lo crean conveniente, podrán pedir de oficio los datos ó informes que estimen necesarios para averiguar los hechos, y al efecto podrán dirigirse á cualquiera autoridad, haciéndolo por oficio y, en los casos urgentes, por telégrafo.

Art. 65. Cuando se trate de extranjeros que digan haber residido en la República por más de tres años y deseen volver á ella sin haber estado ausentes más de uno, y concurriere en ellos alguno de los motivos señalados en la Ley para la exclusion de los extranjeros, se les exigirá que comprueben sus asertos con certificado expedido por la primera autoridad política del lugar en que digan haber tenido su última residencia en la República. Si no presentaren desde luego dicho certificado, y á juicio del Inspector no hubiere temor de que se fuguen ó desaparezcan, se les permitirá que entren en la República y que provisionalmente permanezcan en el lugar de entrada, mientras se recibe el certificado á que antes se hace referencia.

Art. 66. El reconocimiento de los pasajeros que lleguen al territorio nacional será hecho en todo caso por un médico, á lo menos.

Art. 67. Cuando el Inspector de Inmigración ó la persona que haga sus veces no sea médico, procederá al reconocimiento asociado al Delegado ó Agente Sanitario del lugar, para que éste determine si los pasajeros padecen de alguna de las enfermedades que conforme á la ley son motivo para excluirlos, ó se encuentran en algún otro caso de exclusión, por motivo para cuya comprobación sean necesarios conocimientos médicos.

Art. 68. Donde no hubiere Delegado ó Agente Sanitario facultativo, se ocurrirá á los servicios de algún médico particular, previo arreglo con él para fijar sus honorarios, dándose aviso á la Secretaría de Gobernación.

Art. 69. Si no hubiere médico en el lugar y se tratare de pasajeros llegados en buque que trajere médico á bordo, éste será el que auxilie en el reconocimiento al Inspector de Inmigración.

Si no se tratare de puerto ó el buque que hubiere conducido á los pasajeros no trajere médico á bordo, el mismo Inspector practicará también el reconocimiento médico, según su leal saber y entender.

Art. 70. La caución que, conforme al art. 4º. de la Ley de Inmigración deben otorgar los extranjeros comprendidos en las fracciones II, III y IV del art. 3º. de la misma Ley, será cualquiera de las siguientes:

I. Depósito de dinero efectivo que se constituirá en la aduana ó sección aduanera del lugar, por la cantidad que se fije en cada caso y que no será inferior á doscientos pesos ni mayor de cinco mil;

II. Fianza lisa y llana por la cantidad que se fije en cada caso y que no sea inferior á doscientos pesos ni superior á cinco mil, y que se otorgue por persona de notoria solvencia y arraigo, cuya idoneidad sea calificada de acuerdo por el Inspector de Inmigración y el administrador de la aduana ó sólo por éste último, si él desempeñare las funciones de

Inspector. En los lugares en que no haya sino sección aduanera, la idoneidad del fiador será calificada por el jefe de la sección; pero antes de que surta efectos esa calificación deberá ser aprobada por el administrador de la aduana de que dependa la sección. En la fianza se renunciarán todos los beneficios legales, siendo bastante que se otorgue en instrumento privado.

Art. 71. La caución que deben otorgar las empresas navieras, conforme á la fracción VII del art. 22 de la Ley de Inmigración, consistirá en depósito constituido en la Tesorería General de la Federación ó en otra oficina ó establecimiento que designe la Secretaría de Gobernación, por la cantidad que la misma Secretaría fije, ó bien en fianza otorgada por una institución de crédito que tenga concesión del Gobierno, y en la cual fianza se renuncien todos los beneficios legales.

Art. 72. Cuando, conforme al art. 5°. de la Ley de Inmigración, se solicite permiso para la entrada de la esposa, alguno de los padres ó un hijo menor de un extranjero que hubiere fijado ya su residencia en la República y declarado en forma autorizada por la ley su intención de naturalizarse mexicano, y que se encuentren enfermos, la solicitud respectiva se hará á la Secretaría de Gobernación, directamente, ó bien por conducto del Inspector de Inmigración del puerto ó lugar fronterizo á donde haya llegado ó deba de llegar la persona de cuya entrada se trate; y en este último caso, el Inspector transmitirá desde luego la solicitud á la Secretaría, emitiendo parecer sobre ella y expresando cuáles sean las condiciones á que, según su opinión, la persona de quien se trate haya de quedar sujeta.

Mientras la Secretaría de Gobernación resuelve, dicha persona, si ya hubiere llegado, permanecerá en el lugar de entrada, siempre que el Inspector lo permita así por no haber, á su juicio, temor de que se fugue ó desaparezca.

Libertad y Constitución. México, febrero 25 de 1909.

Corral.

171.

PÉROU, BRÉSIL.

Traité de délimitation, de commerce et de navigation; signé à Rio de Janeiro, le 8 septembre 1909.*)

Boletín del Ministerio de Relaciones Exteriores VII, 35. Lima 1910.

Tratado entre el Perú y el Brasil para completar la determinación de las fronteras entre los dos países y establecer principios generales sobre su comercio y navegación en la cuenca del amazonas.

La república del Perú y la república de los Estados Unidos del Brasil, con el propósito de consolidar para siempre su antigua amistad, suprimiendo causas de desavenencia, han resuelto celebrar un tratado que complete la determinación de sus fronteras, y que, al mismo tiempo, establezca principios generales que faciliten el desarrollo de las relaciones de comercio y buena vecindad entre los dos países.

Y para ese fin han nombrado plenipotenciarios, á saber:

El Excelentísimo señor don Augusto B. Leguía, presidente de la república del Perú, al señor doctor don Hernán Velarde, su enviado extraordinario y ministro plenipotenciario en el Brasil; y

El Excelentísimo señor doctor don Nilo Peçanha, presidente de la república de los Estados Unidos del Brasil, al señor doctor don José María da Silva Paranhos do Río Branco, su ministro de estado en el despacho de relaciones exteriores;

Quienes, debidamente autorizados, han convenido en las estipulaciones constantes de los siguientes artículos:

Artículo 1⁰.

Estando ya demarcadas, en ejecución del artículo sétimo del tratado de 23 de octubre de 1851, las fronteras del Perú y del Brasil, en la dirección del norte, desde la naciente del Yavarí hasta el río Caquetá ó Yapurá, las dos altas partes contratantes han acordado que, de la referida naciente del Yavarí hacia el sur y hacia el este los confines de los dos países quedan así establecidos:

1⁰. De la naciente del Yavarí seguirá la frontera, en la dirección del sur, por la línea divisoria de las aguas que van para el Ucayali de las que corren para el Yuruá hasta encontrar el paralelo de nueve grados, veinticuatro minutos y treinta y seis segundos que es el de la boca del Breu, afluente de la orilla derecha del Yuruá.

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*) Les ratifications ont été échangées à Rio de Janeiro, le 30 avril 1910.

2º. Continuará, en la dirección del este, por el indicado paralelo, hasta la confluencia del Breu y subirá por el álveo de este río hasta su cabecera principal.

3º. De la cabecera principal del Breu proseguirá, rumbo del sur, por la línea que divida las aguas que van para el alto Yuruá, al oeste, de las que van para el mismo río al norte, y, pasando entre las cabeceras del Tarahuacá y del Envira, del lado del Brasil, y las del Piqueyaco y Toroyuc, del lado del Perú, irá por el *divortium aquarum* entre el Envira y el afluente de la margen izquierda del Purús llamado Curanja, ó Curumahá, cuya cuenca pertenecerá al Perú, á encontrar la naciente del río de Santa Rosa, ó Curinahá, afluente también de la orilla izquierda del Purús.

Si las cabeceras del Tarahuacá y del Envira estuviesen al sur del paralelo de diez grados, la línea cortará estos ríos siguiendo el expresado paralelo de diez grados y continuará por el *divortium aquarum* entre el Envira y el Curanja, ó Curumahá hasta encontrar la naciente del río Santa Rosa.

4º. De la naciente del río Santa Rosa bajará por el álveo de ese río hasta su confluencia en la orilla izquierda del Purús.

5º. Frente á la boca del río Santa Rosa, la frontera cortará el río Purús hasta el medio del canal más hondo y de ahí continuará, en la dirección del sur, subiendo por el thalweg del Purús hasta llegar á la confluencia del Shambuyaco, su afluente de la margen derecha entre Catai y el Santa Rosa.

6º. De la boca del Shambuyaco subirá por el álveo de esa corriente de agua hasta su naciente.

7º. De la naciente del Shambuyaco, continuará, hacia el sur, ceñida al meridiano de esa naciente hasta encontrar la margen izquierda del río Acre ó Aquiry, ó, si la naciente de este río estuviera más al oriente, hasta encontrar el paralelo de once grados.

8º. Si el citado meridiano de la naciente del Shambuyaco atravesara el río Acre, continuará la frontera, desde el punto de encuentro, por el álveo del mismo río Acre, bajando por él hasta el punto en que empiece la frontera perú-boliviana en la orilla derecha del Alto Acre.

9º. Si el meridiano de la naciente del Shambuyaco no atravezara el río Acre, es decir, si la naciente del Acre estuviese al oriente de ese meridiano, la frontera, desde el punto de intersección de aquel meridiano con el paralelo de once grados, proseguirá por los más pronunciados accidentes del terreno ó por una línea recta, como pareciese más conveniente á los comisarios demarcadores de los dos países, hasta encontrar la naciente del río Acre, y, después, bajando por el álveo del mismo río Acre, hasta el punto en que empiece la frontera perú boliviana, en la orilla derecha del Alto Acre.

Artículo 2º.

Una comisión mixta, nombrada por los dos gobiernos en el plazo de un año, contado á partir del día del canje de las ratificaciones del presente

tratado, procederá á la demarcación de las líneas de frontera descritas en el artículo precedente, dando principio á sus trabajos dentro de los seis meses siguientes al nombramiento.

En protocolo especial se establecerán el modo como esa comisión mixta será constituída y las instrucciones á que quede sujeta para la ejecución de sus trabajos.

Artículo 3º.

Los desacuerdos entre la comisión peruana y la brasilera, que no queden resueltos amigablemente por los dos gobiernos, serán sometidos á la decisión arbitral de tres miembros de la academia de ciencias del instituto de Francia ó de la Royal Geographical Society de Londres, escogidos por el presidente de una ú otra de esas corporaciones.

Artículo 4º.

Si los comisarios demarcadores nombrados por una de las altas partes contratantes dejasen de concurrir, salvo caso de fuerza mayor, en la fecha señalada en el protocolo á que se refiere el artículo segundo, al lugar también designado en ese protocolo para el principio de los trabajos, los comisarios de la otra parte procederán por sí solos á la demarcación y el resultado de sus operaciones será obligatorio para ambos países.

Artículo 5º.

Las dos altas partes contratantes concluirán en el plazo de doce meses un tratado de comercio y navegación, basado en el principio de la más amplia libertad de tránsito terrestre y navegación fluvial para ambas naciones, derecho que ellas se reconocen á perpetuidad, desde el día del canje de las ratificaciones del presente tratado, en todo el curso de los ríos que nacen ó corren dentro ó en las extremidades de la región atravezada por las líneas de frontera que él describe en su artículo 1º., debiendo ser observados los reglamentos fiscales y de policía establecidos ó que se establecieren en el territorio de cada una de las dos repúblicas.

Los buques peruanos destinados á la navegación de esos ríos comunicarán libremente con el océano por el Amazonas.

Los reglamentos fiscales y de policía á que se hace mensión deberán ser tan favorables cuanto sea posible á la navegación y al comercio, y guardarán en los dos países la posible uniformidad.

Queda entendido y declarado que no se comprende en esa navegación la de puerto á puerto del mismo país, ó de cabotaje, que continuará sujeta, en cada uno de los dos estados, á sus respectivas leyes.

Artículo 6º.

De conformidad con las estipulaciones precedentes, y para el despacho en tránsito de los artículos de importación y exportación, el Perú podrá mantener agentes aduaneros en las aduanas brasileras de Belén do Pará

y de Manaos, así como en los demás puestos aduaneros que el Brasil establezca en el río Purús, en el río Yuruá, en el Madera y en la margen derecha del Yavarí, ó en otros lugares de la frontera común.

Recíprocamente, el Brasil podrá mantener agentes aduaneros en la aduana peruana de Iquitos y en cualquier otra aduana ó puesto aduanero que el Perú establezca sobre el río Marañón ó Amazonas y sus afluentes, sobre la margen meridional ó derecha del Alto Acre, sobre el Alto Purús, el Alto Yuruá, ó en otros lugares de la frontera común.

Artículo 7º.

Las altas partes contratantes se obligan á mantener y respetar, según los principios del derecho civil, los derechos reales adquiridos por nacionales y extranjeros sobre las tierras que, por efecto de la determinación de fronteras constante del artículo primero del presente tratado, quedan reconocidas como pertenecientes al Perú ó al Brasil.

Artículo 8º.

Los desacuerdos que puedan surgir entre los dos gobiernos, con motivo de la interpretación y ejecución del presente tratado, serán sometidos á arbitraje.

Artículo 9º.

Este tratado, después de su aprobación por el poder legislativo de cada una de las dos repúblicas, será ratificado por los dos gobiernos y las ratificaciones serán canjeadas en la ciudad de Lima ó en la de Río de Janeiro en el más breve plazo posible.

En fé de lo cual, nosotros los plenipotenciarios arriba nombrados, firmamos el presente tratado, en dos ejemplares, cada uno de ellos en los idiomas castellano y portugués, poniendo en ellos nuestros sellos.

Hecho en la ciudad de Río de Janeiro, á los ocho días del mes de setiembre del año mil novecientos nueve.

(L. S.) *Hernán Velarde.*
(L. S.) *Río Branco.*

172.

CHINE, JAPON.

Arrangement concernant les Iles Pratas; signé le 11 octobre 1909.

Shun tien shih pao du 26 octobre 1909 (Traduction).

Extrait.

Vertrag, der von dem Bevollmächtigten des Generalgouverneurs Yüan bezüglich der Übernahme des auf der Pratasinsel vorhandenen Privateigentums vereinbart worden ist.

Seit längerem schwebten bezüglich der Übernahme des auf der Pratasinsel befindlichen Privateigentums Verhandlungen zwischen dem Taotai Wei als Spezialbevollmächtigten des Generalgouverneurs Yüan einerseits und dem japanischen Konsulat andererseits. Nachdem nun am 22. v. M. eine endgültige Einigung erzielt war, wurde der Vertrag dem Generalgouverneur zur Prüfung unterbreitet und hat nunmehr gestern dessen Ratifikation erhalten. Wir bringen im folgenden auszugsweise die wesentlichen Bestimmungen, die der Vertrag enthält:

1. Auf Grund sorgfältiger Prüfung der beiderseitig geltend gemachten Ansprüche kommen China und Japan überein: Die im Verwaltungsbereich der Präfektur Hueitschou gelegene Pratasinsel gehört dauernd und auf immer zu China und bildet einen Teil der Präfektur Hueitschoufu in Kuangtung. China entsendet einen Spezialbeamten hin, der dort residieren und die wirtschaftliche Entwickelung der Insel in die Hand nehmen wird.

2. China übernimmt gegen Zahlung einer Summe von 160000 Kuangtung Dollar, die auf Grund des seinerzeit mit dem Bevollmächtigten der Provinz Kuangtung vereinbarten Kostenanschlags als Kaufpreis festgesetzt ist, sämtliche von den japanischen Kaufleuten auf der Insel geschaffenen Einrichtungen, Arbeiten, Anlagen, sowie deren daselbst befindliches Privateigentum. (Zu den Gegenständen des übernommenen Privateigentums gehören im einzelnen: zwei mehrstöckige Häuser europäischer Bauart, eine Anzahl verschiedener Gebäude sowie sechs Lagerplätze, ferner die schmalspurige Transportbahnstrecke, die von den Minengruben an die Seeküste führt, ferner acht Stück Wach- und Fischerboote verschiedener Grösse, ferner das zum Minen- und Fischereibetrieb gehörige Maschinen- und Handwerksmaterial sowie vierzig bis fünfzig Stück sonstiger Gerätschaften, schliesslich die noch vorhandenen Bestände an bereits gewonnenem Phosphat und eine Anzahl Fischereiprodukte.)

3. Als Ersatz für den auf der Insel seinerzeit durch Zerstörung von Tempeln, Privathäusern, Fischerbooten sowie seither durch die zollfreie Ausfuhr von Phosphat verursachten Schaden haben die japanischen Kaufleute eine Pauschalsumme von 30000 Dollar zu zahlen. Über diese Summe

ist bereits früher eine Verständigung erzielt worden. Sie soll von der von China zu entrichtenden Übernahmesumme abgezogen werden.

4. Demnach hat China den japanischen Kaufleuten als Gegenleistung für die Übernahme des Privateigentums nach Abzug der 30000 Dollar Schadenersatzgelder tatsächlich im ganzen den Betrag von 130000 Dollar zu zahlen. Die Parteien kommen überein, dass gleichzeitig mit der Übernahme des auf der Insel vorhandenen Privateigentums in Canton die Auszahlung der Übernahmesumme erfolgen soll. Als Termin für die Übernahme des auf der Insel vorhandenen Privateigentums wird der 12. Tag des 9. Monats chinesischen Datums, nach europäischer Zeitrechnung der 25. Oktober festgesetzt, während die Auszahlung der vollen Übernahmesumme am 14. Tag des 9. Monats (27. Oktober) zu erfolgen hat. Sobald der volle Betrag der für die Übernahme des auf der Pratasinsel befindlichen Privateigentums zu leistenden Summe seitens des Bevollmächtigten der Provinz Kuangtung gezahlt und in Empfang genommen ist, haben die auf der Insel ansässigen japanischen Kaufleute und Arbeiter die Insel zu verlassen und sind hierbei befugt, alle Gegenstände privaten Haushalts und Eigentums, soweit diese in die Übernahmesumme nicht eingerechnet sind, nach Wunsch mitzunehmen.

Wir hören, dass der Generalgouverneur Yüan für den 12. Tag des 9. Monats (25. Oktober) einen Bevollmächtigten zum japanischen Vizekonsul zwecks Vollziehung und Erledigung des Übernahmegeschäfts senden wird und dass er ferner den Gewerbetaotai sowie das Reorganisationsamt angewiesen hat, einen fähigen Beamten zu ernennen, der unverzüglich die Residentur auf der Insel übernehmen soll.

173.

PORTUGAL.

Loi défendant la pêche côtière aux navires étrangers; du 26 octobre 1909.

Diario do Governo 1909, No. 247.

Dom Manuel II, por graça de Deus, Rei de Portugal e dos Algarves, etc. Fazemos saber a todos os nossos subditos que as Côrtes Geraes decretaram e nós queremos a lei seguinte:

Artigo 1°. Nas aguas territoriaes portuguesas, no limite de 3 milhas maritimas, a contar da linha da maxima baixamar, é prohibida a pesca ás embarcações estrangeiras.

§ unico. Nas bahias a faixa de 3 milhas é contada segundo os principios do direito internacional.

Art. 2⁰. As embarcações estrangeiras que, em contravenção do disposto no artigo 1⁰. da presente lei, forem encontradas exercendo a pesca, serão rectidas com os respectivos apparelhos ou redes e pescaria colhida, e os capitães, mestres ou patrões incorrerão na pena de perdimento da pescaria e multa de 10$000 a 50$000 réis, segundo as circunstancias.

§ unico. Quando as redes ou apparelhos empregados forem considerados nocivos, a pena estabelecida neste artigo será aggravada com a imposição da multa que corresponda por igual contravenção aos pescadores nacionaes, conforme está estabelecido no decreto de 16 de outubro de 1896.

Art. 3⁰. São considerados nocivos, dentro das aguas territoriaes, as redes ou apparelhos que funccionam a reboque de uma ou mais embarcações movidas por qualquer motor.

§ unico. Compete ao Governo, ouvidas as estações competentes, declarar nocivos para os effeitos da presente lei quaesquer outros systemas de pesca.

Art. 4⁰. São competentes para fazer a retenção de que trata o artigo 2⁰. os officiaes e officiaes marinheiros commandando embarcações do Estado, e todas autoridades e mais agentes encarregados da policia da pesca.

§ 1⁰. Da transgressão e da retenção será sempre lavrado auto circunstanciado.

§ 2⁰. O auto fará inteira fé até prova em contrario.

Art. 5⁰. Formado que seja o auto referido no artigo antecedente, será entregue á capitania do porto mais proxima das aguas onde se tenha verificado a transgressão, bem como a embarcação retida, com a sua tripulação, aprestos, apparelhos ou redes, e pescaria encontrados.

§ 1⁰. A pescaria retida será sem demora vendida em hasta publica, e o seu producto arrecadado na Caixa Geral de Depositos ou sua delegação, á ordem do mesmo capitão do porto.

§ 2⁰. O capitão do porto ouvirá immediatamente o transgressor sobre a materia do auto e, se este confessar a transgressão e se sujeitar á multa ou multas em que incorrer e perda da pescaria, ser-lhe-ha passada guia para entrar na Caixa Geral de Depositos ou delegação respectiva no prazo de vinte e quatro horas, com a multa ou multas que lhe forem applicadas, tomando o capitão do porto termo de residencia dentro da respectiva comarca, e annotando no respectivo auto a data da entrega da guia.

§ 3⁰. Apresentado que seja o documento de se haver effectuado o deposito alludido dentro do prazo indicado, o capitão do porto declarará findo o processo, e mandará entregar ao transgressor a embarcação com os seus aprestos e redes ou apparelhos nella encontrados.

§ 4⁰. No caso porem de o transgressor contestar a transgressão ou retenção, ou de não mostrar provas de que effectuou o deposito da multa ou multas no prazo indicado, o processo será immediatamente remettido ao juizo de direito da comarca respectiva, para ahi se proceder contra o transgressor em forma de policia correccional, qualquer que seja o valor da multa, e devendo o julgamento realizar-se no prazo de quinze dias, observando-se os tramites legaes.

§ 5º. O transgressor prestará fiança idonea perante a autoridade respectiva ou no juizo onde for responder, para desembaraçar e receber livres a embarcação, seus aprestos e apparelhos de pesca, e como garantia das despesas a que se refere o artigo 11º.

Art. 6º. Da sentença do juizo de direito, nos casos em que a multa ou multas legaes excederem a quantia de 50$000 réis, cabem os recursos legaes sem effeito suspensivo, salvo se o appellante for o Ministerio Publico, ou se o transgressor, sendo o appellante, depositar a importancia da condemnação.

§ unico. Esses recursos serão julgados no prazo maximo de trinta dias.

Art. 7º. A execução da sentença correrá nos proprios autos perante o juizo onde houver sido proferida, e para elle será o condemnado citado na residencia escolhida, nos termos do artigo 189º. do Codigo do Processo Civil, para no prazo de cinco dias pagar ou depositar a importancia da condemnação, sob pena da execução na embarcação, seus aprestos e apparelhos de pesca.

Art. 8º. Se, decorrido o prazo fixado no artigo anterior, não tiver o transgressor pago ou depositado a importancia da condemnação, passar-se-hão editos para a venda dos objectos retidos.

§ unico. Os editos correrão por espaço de oito dias, e serão publicados no jornal da localidade, se o houver, e affixados na capitania do porto respectivo, na qual será effectuada a venda em hasta publica sob a presidencia do respectivo juiz de direito. O producto da venda será depositada na Caixa Geral de Depositos ou sua delegação, para ter o destino a que se refere o artigo 12º.

Art. 9º. Se nos termos da presente lei uma embarcação estrangeira tiver de ser retida, será feito com a assistencia do consul da nação a que a mesma embarcação pertença, ou delegado seu, um inventario em triplicado de tudo quanto nella se encontrar, o qual será assinado pelo capitão do porto e autoridade consular, sendo um para archivar na capitania, outro para juntar ao auto e o terceiro para o consulado.

§ unico. No caso da autoridade consular, por qualquer circunstancia, não assistir ao inventario, tendo sido devidamente avisada, ou não a havendo na localidade, o capitão do porto procederá a este em presença de duas testemunhas idoneas, que com elle assinarão.

Art. 10º. Emquanto a embarcação se conservar retida é permittido ao seu proprietario o beneficiá-la, não sendo a autoridade maritima responsavel pelos prejuizos que da falta de beneficiamento possam resultar á embarcação.

Art. 11º. As embarcações retidas e os apparelhos ou redes que ellas conduzam respondem sempre pelo integral pagamento da multa ou multas, e tambem pelas despesas legaes da capitania e do processo judicial, quando o houver, excepto no caso da fiança de que trata o § 3º. do artigo 5º.

Art. 12º. O producto da venda da pescaria perdida e do valor da multa ou multas, depois de deduzida a parte consignada nas leis do país, ficará na Caixa Geral de Depositos, constituindo receita do fundo a criar

para uma caixa de protecção a pescadores que no seu mester se invalidem, e sobre cuja organização o Governo trará, na proxima sessão parlamentar, a proposta de lei respectiva.

§ 1º. Para o mesmo fundo reverterão quaesquer outras multas que hajam de ser pagas, em virtude de leis em vigor, por pescadores nacionaes ou estrangeiros, depois de deduzidas as verbas expressas em leis anteriores.

§ 2º. Quando a fiança ou a importancia da venda da embarcação, seus aprestos e apparelhos de pesca for superior á multa ou multas e despesas do processo, o excedente ficará na mesma Caixa Geral de Depositos, de onde poderá ser levantado pelo transgressor por meio de precatorio, no prazo de cinco annos, findo o qual reverterá para o fundo a que este artigo allude.

Art. 13º. As redes ou apparelhos encontrados pelas autoridades a que se refere o artigo 4º., dentro das aguas territoriaes, serão considerados arrojos do mar e entregues ás estancias fiscaes, quando se verifique não pertencerem a pescadores nacionaes.

Art. 14º. O Governo providenciará de modo que as disposições da presente lei possam ser applicadas nas provincias ultramarinas.

Art. 15º. Fica revogada a legislação em contrario, resalvadas porem as disposições correlativas que se contenham nos actos internacionaes celebrados entre Portugal e outros paises, emquanto vigorarem esses actos.

Mandamos portanto a todas as autoridades, a quem o conhecimento e execução da presente lei pertencer, que a cumpram e guardem e façam cumprir e guardar tão inteiramente como nella se contém.

O Ministro e Secretario de Estado dos Negocios da Marinha e Ultramar a faça imprimir, publicar e correr. Dada no Paço, em Cintra, aos 26 de outubro de 1909. = El-Rei, com rubrica e guarda. = *Manuel da Terra Pereira Vianna.*—(Logar do sêllo grande das armas reaes).

Carta de ei pela qual Vossa Majestade, tendo sanccionado o decreto das Côrtes Geraes de 17 de setembro ultimo, que prohibe a pesca ás embarcações estrangeiras nas aguas territoriaes portuguesas, no limite de 3 milhas maritimas a contar da linha da maxima baixamar, resalvadas porem as disposições correlativas que se contenham nos actos internacionaes celebrados entre Portugal e outros paises, emquanto vigorarem esses actos, manda cumprir e guardar o mesmo decreto como nelle se contém, pela forma retro declarada.

Para Vossa Majestade ver. = *Eduardo Augusto de Sousa Ribeiro* a fez.

174.

BRÉSIL, URUGUAY.

Traité de délimitation; signé à Rio de Janeiro, le 30 octobre 1909.*)

Diario official. Estados Unidos do Brazil. 1909, No. 262.

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1) Texto em vernaculo.

Tratado entre os Estados Unidos do Brasil e a Republica Oriental do Uruguay, modificando as suas fronteiras na lagôa Mirim e rio Jaguarão e estabelecendo principios geraes para o commercio e navegação nessas paragens.

A Republica dos Estados Unidos do Brasil e a Republica Oriental do Uruguay, no proposito de estreitar cada vez mais a sua antiga amizade e de favorecer o desenvolvimento das relações de commercio e boa visinhança entre os dois povos, resolveram, por iniciativa do Governo Brasileiro, rever e modificar as estipulações relativas ás linhas de fronteira na lagôa Mirim e rio Jaguarão e tambem, como propunha o Governo Oriental desde Dezembro de 1851, as relativas á navegação na mesma lagôa e rio, estipulações essas contidas no Tratado de Limites de 12 de Outubro de 1851, no de 15 de Maio de 1852 e no Accôrdo de 23 de Abril de 1853, assignados, o primeiro, na cidade do Rio de Janeiro, e, os dois outros, na de Montevidéo;

E para esse fim, nomearam Plenipotenciarios, a saber:

O Presidente da Republica dos Estados Unidos do Brasil, o Sr. Dr. José Maria da Silva Paranhos do Rio-Branco, seu Ministro de Estado das Relações Exteriores; e

O Presidente da Republica Oriental do Uruguay, o Sr. Rufino T. Dominguez, seu Enviado Extraordinario e Ministro Plenipotenciario no Brasil;

Os quaes, depois de haverem trocado os seus plenos poderes que acharam em boa e devida fórma, convieram nos artigos seguintes:

Artigo 1º.

A Republica dos Estados Unidos do Brasil cede á Republica Oriental do Uruguay:

1º Desde a bocca do arroio de S. Miguel até á do rio Jaguarão, a parte da lagôa Mirim comprehendida entre a sua margem occidental e a nova fronteira que deve atravessar longitudinalmente as aguas da lagôa, nos termos do artigo 3º do presente tratado;

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*) Les ratifications ont été échangées à Rio de Janeiro, le 5 mai 1910.

2º No rio Jaguarão, a parte do territorio fluvial comprehendida entre a margem direita, ou meridional, e a linha divisoria determinada adeante, no artigo 4º

Artigo 2º.

A cessão dos direitos de soberania do Brasil, baseados, a principio, na posse que elle adquiriu e manteve, desde 1801, das aguas e navegação da lagôa Mirim e rio Jaguarão, e, depois, estabelecidos e confirmados solemnemente nos pactos de 1851, 1852 e 1853, é feita com as seguintes condições, que a Republica Oriental do Uruguay acceita:

1ª Salvo accôrdo posterior, sómente embarcações brasileiras e orientaes poderão navegar e fazer o commercio nas aguas do rio Jaguarão e lagôa Mirim, como adeante, em outros artigos, está declarado.

2ª Serão mantidos e respeitados pela Republica Oriental do Uruguay, segundo os principios do Direito Civil, os direitos reaes adquiridos por Brasileiros ou estrangeiros nas ilhas e ilhotas que por effeito da nova determinação de fronteiras deixam de pertencer ao Brasil.

3ª Nenhuma das Altas Partes Contractantes estabelecerá fortes ou baterias nas margens da lagôa, nas do rio Jaguarão, ou em qualquer das ilhas que lhes pertençam nessas aguas.

Artigo 3º

Principiando na fóz do arroio de S. Miguel, onde se acha o Quarto Marco Grande, ahi collocado pela Commissão Mixta demarcadora de 1853, a nova fronteira atravessará longitudinalmente a lagôa Mirim até á altura da ponta Rabotieso, na margem uruguaya, por meio de uma linha quebrada, definida por tantos alinhamentos rectos quantos sejam necessarios para conservar a meia distancia entre os pontos principaes das duas margens ou, se o fundo for escasso, por tantos alinhamentos rectos quantos sejam necessarios para acompanhar o canal principal da referida lagôa.

Da altura da citada ponta Rabotieso, a linha divisoria se inclinará na direcção de noroéste o que for preciso para passar entre as ilhas chamadas do Taquary, doixando do lado do Brasil a ilha mais oriental e os dois ilhotes que lhe ficam juntos; e dahi irá alcançar, nas proximidades da ponta Parobé, tambem situada na margem uruguaya, o canal mais profundo, continuando por elle até defrontar a ponta Muniz, na margem uruguaya, e a ponta dos Latinos, ou do Fanfa, na margem brasileira.

D'esse ponto intermédio, e passando entre a ponta Muniz e a ilha brasileira do Juncal, irá buscar a fóz do Jaguarão em que se acham, á margem esquerda, ou brasileira, o Quinto Marco Grande de 1853, e, á margem direita, ou uruguaya, o Sexto Marco intermédio.

Artigo 4º.

Da fóz do Jaguarão, subirá a fronteira pelo thalwégue d'esse rio até á altura da confluencia do arroio Lagoões, na margem esquerda.

D'esse ponto para cima, a linha divisoria seguirá a meia distancia das margens do Jaguarão, depois, a meia distancia das do Jaguarão Chico

ou Guabijú, em cuja confluencia está o Sexto Marco Grande, de 1853, e, finalmente, subirá pelo alveo do arroio da Mina, assignalado pelos Marcos intermédios Setimo e Oitavo.

Artigo 5º.

Uma Commissão Mixta, nomeada pelos dois Governos no prazo de um anno contado do dia da troca das ratificações do presente tratado, levantará a planta da parte da lagôa Mirim que se extende ao sul da ponta do Juncal, e tambem a planta do rio Jaguarão desde a sua fóz até a do arroio Lagoões, effectuando as sondagens necessarias, além das operações topographicas e geodesicas indispensaveis para a determinação da nova fronteira, e balisando-a na lagôa segundo os processos mais convenientes.

Artigo 6º.

A navegação da lagôa Mirim e do rio Jaguarão é livre para os navios mercantes das duas nações; e para os orientaes é tambem livre o transito, entre o Oceano e a lagôa Mirim, pelas aguas basileiras do rio S. Gonçalo, lagôa dos Patos e barra do Rio Grande de S. Pedro, ficando sujeitos, os navios brasileiros e orientaes, nas aguas jurisdiccionaes de cada uma das duas Republicas, aos regulamentos fiscaes e de policia que ellas tenham estabelecido ou venham a estabelecer, e obrigados os navios orientaes em transito ás mesmas taxas que os brasileiros.

Os navios de commercio empregados nessa navegação só poderão no outro paiz communicar-se com a terra, salvo caso de força maior ou licença especial, nos logares em que haja postos aduaneiros ou estações fiscaes e de policia.

Artigo 7º.

Fica entendido e declarado que na liberdade de navegação para o commercio entre os dois paizes se não comprehende o transporte de mercadorias de porto a porto de mesmo paiz, ou commercio de cabotagem, o qual continuará sujeito em cada um dos dois Estados ás suas respectivas leis.

Artigo 8º.

Dentro do prazo de seis mezes, contado da troca das ratificações do presente tratado, cada uma das Altas Partes Contractantes declarará á outra qual o porto ou quaes os portos habilitados ou que pretenda habilitar para o commercio no rio Jaguarão e na lagôa Mirim; e quando posteriormente resolva habilitar mais algum ou alguns, i formará d'isso a outra Parte com a antecedencia de seis mezes, a fim de serem adoptadas as medidas convenientes para evitar o contrabando.

Artigo 9º.

Os navios de guerra orientaes poderão transitar livremente pelas aguas brasileiras entre o Oceano e a lagôa Mirim, e navegar, como os brasileiros, o rio Jaguarão e a dita lagôa, ou estacionar em suas aguas.

Salvo circumstancias extraordinarias, de que darão aviso prévio uma á outra, as duas Altas Partes Contractantes obrigam-se a não manter na lagôa Mirim e seus affluentes mais de tres pequenas embarcações de guerra, ou armadas em guerra, devendo ser objecto de ajuste especial o porte, armamento e guarnição das mesmas.

Artigo 10.

Os dois Estados ribeirinhos, no intuito de facilitar a navegação da lagôa Mirim, comprommettem-se a manter alli as balisas o signaes que forem precisos na parte que a cada um corresponda.

Artigo 11.

As Altas Partes Contractantes concluirão no menor prazo possivel um Tratado de Commercio e Navegação baseado nos principios mais liberaes, tendo em vista proteger do modo mais efficaz o commercio licito pelas fronteiras fiuviaes e terrestres.

Os regulamentos fiscaes e de policia de que acima se fala deverão ser tão favoraveis quanto seja possivel á navegação e ao commercio e guardar nos dois paizes a praticavel uniformidade.

Artigo 12.

O presente tratado, mediante a necessaria autorisação do Poder Legislativo em cada uma das duas Republicas, será ratificado pelo dois Governos e as ratificações serão trocadas na cidade do Rio de Janeiro ou na de Montevidéo no mais breve prazo possivel.

Em fé do que, nós, os Plenipotenciarios acima nomeados, firmamos o presente tratado em dois exemplares, cada um nas linguas portugueza e castelhana, appondo em ambos o signal de nossos sellos.

Feito na cidade do Rio de Janeiro, aos 30 dias do mez de Outubro de 1909.

(L. S.) *Rio-Branco.*
(L. S.) *Rufino T. Dominguez.*

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2) Texto em Castelhano.

Tratado entre la República Oriental del Uruguay y los Estados Unidos del Brasil, modificando sus fronteras en la laguna Mirin y en el rio Yaguarón, y estableciendo principios generales para el comercio y navegación en esos parajes.

La República Oriental del Uruguay y la República de los Estados Unidos del Brasil, en el proposito de estrechar cada ves más su antigua amistad y de favorecer el desarrollo de las relaciones de comercio y buena vecindad entre los dos pueblos, resolvieron, por iniciativa del Gobierno Brasileño, rever y modificar las estipulaciones relativas á las lineas de

frontera en la laguna Mirin y en el rio Yaguarón, y tambien, como proponia el Gobierno Oriental desde Diciembre de 1851, las relativas á la navegación en la misma laguna y rio, estipulaciones esas contenidas en el Tratado de Limites de 12 de Octubre de 1851, en el de 15 de Mayo de 1852, y en el Arreglo de 22 de Abril de 1853, firmados, el primero, en la ciudad de Rio de Janeiro, y los dos otros, en la de Montevideo;

Y para ese fin nombraron Plenipotenciarios, a saber:

El Presidente de la República Oriental del Uruguay, al Señor D. Rufino T. Dominguez, su Enviado Extraordinario y Ministro Plenipotenciario en el Brasil; y

El Presidente de los Estados Unidos del Brasil, al Señor Doctor D. José Maria da Silva Paranhos do Rio-Branco, su Ministro de Estado en el despacho de Relaciones Exteriores;

Los cuales, después de haber canjeado sus plenos poderes, que hallaron en buena y debida forma, convinieron en los artículos siguientes:

Artículo 1º.

La República de los Estados Unidos del Brasil cede á la República Oriental del Uruguay:

1º. Desde la boca del arroyo de San Miguel hasta la del rio Yaguarón, la parte de la laguna Mirin comprendida entre su margen occidental y la nueva frontera que debe atravesar longitudinalmente las aguas de la laguna, segun los terminos del artículo 3º. del presente tratado;

2º. En el rio Yaguarón, la parte de territorio fluvial comprendida entre la margen derecha, ó meridional, y la linea divisoria adelante determinada, en el artículo 4º.

Artículo 2º.

La cesión de los derechos de soberania del Brasil, basados, al principio, en la posesión que él adquirió y mantuvo, desde 1801, de las aguas y navegación de la laguna Mirin y rio Yaguarón, y, despues, establecidos y confirmados solemnemente en los pactos de 1851, 1852 y 1853, es hecha con las siguientes condiciones, que la República Oriental del Uruguay acepta:

Iª Salvo acuerdo posterior, solamente embarcaciones brasileñas y orientales podrán navegar y hacer el comercio en las aguas del rio Yaguarón y de la laguna Mirin, como adelante, en otros artículos, está declarado.

2ª Serán mantenidos y respetados por la República Oriental del Uruguay, según los principios del Derecho Civil, los derechos reales adquiridos por Brasileños ó extranjeros en las islas é islotes que por efecto de la nueva determinación de fronteras dejan de pertenecer al Brasil.

3ª Ninguna de las Altas Partes Contratantes establecerá fuertes ó baterias en las margenes de la laguna, en las del rio Yaguarón ó en cualquiera de las islas que les pertenezcan en esas aguas.

Artículo 3°.

Empezando en la embocadura del arroyo de San Miguel, donde se halla el Cuarto Marco Grande, alli colocado por la Comisión demarcadora de 1853, la nueva frontera atravesará longitudinalmente la laguna Mirin, hasta la altura de la punta de Rabotieso, en la margen uruguaya, por medio de una linea quebrada, definida por tantas lineas rectas cuantas sean necesarias para conservar la distancia media entre los puntos principales de las dos margenes, ó, si el fondo fuera escaso, por tantas lineas rectas cuantas sean necesarias para acompañar el canal principal de la referida laguna.

Desde la altura de la citada punta Rabotieso, la linea divisoria se inclinará en la dirección del noroeste lo que sea necesario para pasar entre las islas llamadas del Tacuary, dejando del lado del Brasil la isla mas oriental y los dos islotes que a ella estan juntos; y de ahi irá alcanzár, en las proximidades de la punta Parobé, tambien situada en la margen uruguaya, el canal mas hondo, continuando por el hasta enfrentar la punta Muniz, en la margen uruguaya, y la punta de los Latinos, ó de Fanfa, en la margen brasileña.

Desde ese punto intermedio, y pasando entre la punta Muniz y la isla brasileña del Juncal, irá á buscar la embocadura del Yaguarón, en la cual se hallan, en la margen izquierda, ó brasileña, el Quinto Marco Grande de 1853, y en la margen derecha, ó uruguaya, el Sesto Marco intermedio.

Artículo 4°.

Desde la embocadura del Yaguarón, subirá la frontera por el thalweg de ese rio hasta la altura de la confluencia del arroyo Lagooens, en la margen izquierda.

Desde ese punto hacia arriba, la linea divisoria seguirá la distancia media de las márgenes del Yaguarón, después, la distancia média de las del Yaguarón Chico ó Guaviyú, en cuya confluencia está el Sesto Marco Grande, de 1853, y, finalmente, subirá por el lecho del arroyo de la Mina, señalado por los Marcos intermedios Setimo y Octavo.

Artículo 5°.

Una Comisión Mixta, nombrada por los dos Gobiernos en el plazo de un año contado desde el dia del canje de las ratificaciones del presente tratado, levantará la planta de la parte de la laguna Mirin que se extende al sur de la punta del Juncal, y tambien la planta del rio Yaguarón desde su embocadura hasta el arroyo Lagooens, efectuando los sondages necesarios además de las operaciones topográficas y geodesicas indispensables para la determinacion de la nueva frontera, y avalizandola en la laguna según los procedimientos más convenientes.

Artículo 6°.

La navegación de la laguna Mirin y rio Yaguarón es libre para los buques mercantes de las dos naciones; y para los orientales es libre

también el tránsito, entre el Oceano y la laguna Mirin, por las aguas brasileñas del rio San Gonzalo, laguna de los Patos y barra de Rio Grande de San Pedro, quedando sujetos, los buques brasileños y orientales, en las aguas jurisdicionales de cada una de las dos Repúblicas, á los reglamientos fiscales y de policia que ellas hayan establecido ó vengan á establecer, y obligados los buques orientales en tránsito á los mismos tributos que los brasileños.

Los buques mercantes empleados en esa navegación sólo podrán en el otro país comunicarse con la tierra, salvo caso de fuerza mayor ó licencia especial, en los lugares en que haya puestos aduaneros ó oficinas fiscales y de policia.

Artículo 7°.

Queda entendido y declarado que en la libertad de navegación para el comercio entre los dos países no se comprende el transporte de mercaderias de puerto á puerto del mismo país, ó comercio de cabotaje, el cual continuará sujeto en cada uno de los dos Estados á sus respectivas leyes.

Artículo 8°.

Dentro del plazo de seis meses, contado desde el canje de las ratificaciones del presente tratado, cada una de las Altas Partes Contratantes comunicará á la otra cual es el puerto ó cuales son los puertos habilitados ó que pretenda habilitar para el comercio en el rio Yaguarón y en la laguna Mirin; y cuando posteriormente resuelva habilitar alguno ó algunos más, informará de eso á la otra Parte con antecedencia de seis meses, á fin de ser adoptadas las medidas convenientes para evitar el contrabando.

Artículo 9°.

Los buques de guerra orientales podrán transitar libremente en aguas brasileñas entre el Oceano y la laguna Mirin, y navegar, como los brasileños, en el rio Yaguarón y dicha laguna, ó estacionarse en sus aguas.

Salvo circunstancias extraordinarias, de que dará aviso prévio una á la otra, las dos Altas Partes Contratantes se obligan á no mantener en la laguna Mirin y sus afluentes más de tres pequeñas embarcaciones de guerra, ó armadas en guerra, debiendo ser objecto de ajuste especial el porte, armamento y guarnición de las mismas.

Artículo 10.

Los dos Estados rivereños, en el propósito de facilitar la navegación en la laguna Mirin, se comprometen á mantener alli las valizas y señales que fueren necesarios en la parte que á cada una corresponda.

Artículo 11.

Las Altas Partes Contratantes concluirán en el menor plazo posible un Tratado de Comercio y Navegación basado en los principios más liberales, teniendo en vista protejer del modo más eficaz el comercio licito por las fronteras fluviales y terrestres.

Los reglamentos fiscales y de policia de que antes se habla deberán ser tan favorables cuanto sea posible a la navegación y al comercio, y guardar en los dos países la praticable uniformidad.

Artículo 12.

El presente tratado, mediante la necesaria autorisación del Poder Legislativo en cada una de las dos Repúblicas, será ratificado por los dos Gobiernos y las ratificaciones serán canjeadas en la ciudad de Montevideo ó en la de Rio de Janeiro en el más breve plazo posible.

En fé de lo cual, nós, los Plenipotenciarios antes nombrados, firmamos el presente tratado en dos ejemplares, cada uno en los idiomas castellano y portugués, poniendo en ambos la señal de nuestros sellos.

Hecho en la ciudad de Rio de Janeiro, á los 30 dias del mes de Octubre de 1909.

(L. S.) *Rufino T. Dominguez.*
(L. S.) *Rio-Branco.*

175.

ITALIE, AUTRICHE.

Arrangement concernant le service téléphonique; signé à Vienne, le 16 novembre et à Rome, le 24 novembre 1909, suivi d'un Accord signé à Vienne, le 19 janvier et à Rome, le 6 février 1911.

Gazzetta ufficiale del Regno d'Italia 1910. No. 95; 1911. No. 110.

Arrangement particulier
conclu entre les Administrations de téléphones de l'Italie et de l'Autriche pour régler leurs rapports de service.

Art. 1.

L'établissement et l'exploitation des lignes téléphoniques entre l'Autriche et l'Italie seront soumis au régime de la Convention télégraphique internationale de St. Pétersbourg*) et du Règlement y annexé,**) sauf les dispositions contenues dans le présent arrangement.

*) Du 22 juillet 1875. V. N. R. G. 2. s. III, p. 614.
**) V. Revision de Lisbonne du 11 juin 1908; N. R. G. 3. s. V, p. 208.

Art. 2.

Les lignes téléphoniques entre l'Autriche et l'Italie sont établies et exploitées exclusivement par les deux Administrations téléphoniques des deux pays.

Chacune des deux Administrations fait exécuter à ses frais, sur son propre territoire, les travaux d'établissement et d'entretien des lignes téléphoniques. Elles peuvent aussi après accord utiliser des fils télégraphiques pour l'échange des communications téléphoniques.

Lorsque des lignes du service intérieur doivent servir à des communications internationales, celles-ci ont la priorité sur les correspondances intérieures du même rang.

Les deux Administrations déterminent, d'un commun accord, l'affectation de chacun des circuits par lesquels peuvent s'établir les relations internationales, les villes admises à la correspondance et les heures entre lesquelles les relations sont autorisées.

Art. 3.

Sont admises des communications d'Etat.

Art. 4.

Pour la détermination des taxes terminales, le territoire de chacun des deux pays est divisé en trois zônes.

Forment la 1re zône:

en Autriche: la partie du Tirol située au sud de la crête des Alpes centrales, la Carinthie, la Carniole, le Littorale;

en Italie: les provinces de Bellune, Bologne, Brescia, Crémone, Ferrare, Mantoue, Modène, Padoue, Parme, Reggio de l'Emilie, Rovigo, Trévise, Udine, Venise, Vérone, Vicence;

la 2me zône:

en Autriche: la partie du Tirol située au nord de la crête des Alpes centrales, le Vorarlberg, la principauté de Liechtenstein, le Salzbourg, la Styrie, la Haute-Autriche, la Basse-Autriche et la Dalmatie;

en Italie: les provinces de Alexandrie, Ancone, Aquila, Arezzo, Ascoli, Côme, Bergame, Florence, Forlì, Cuneo, Gênes, Grosseto, Livourne, Lucque, Macerata, Masse, Milan, Novare, Pavie, Pérouse, Pesaro, Plaisance, Pise, Port-Maurice, Ravenne, Rome, Sienne, Sondrio, Teramo et Turin;

la 3me zône:

en Autriche et en Italie le territoire non compris dans les deux premières zônes.

Art. 5.

Les taxes terminales sont fixées dans chacun des deux pays par conversation non urgente de trois minutes à un franc cinquante centimes

(frc. 1.50) pour la première zône, à deux francs (frcs. 2) pour la deuxième zône et à trois francs (frcs. 3) pour la troisième zône, que les communications soient originaires ou à destination de centres téléphoniques ou de postes téléphonique publics situés dans une de ces zônes.

La taxe terminale afférente au parcours sur son territoire est acquise à chaque Administration.

Art. 6.

Des taxes réduites indivisibles sont fixées pour les communications échangées entre les localités voisines de la frontière. Ces taxes s'élèvent à un franc cinquante centimes (frc. 1.50) pour toute communication échangée par l'intermédiaire de lignes ou section de ligne dont la longueur totale réelle n'excède pas 100 kilomètres, à soixante centimes pour toute communication échangée entre un centre téléphonique ou un poste public Italien et un centre téléphonique ou un poste public Autrichien, où la distance à ligne droite n'excède pas 25 kilomètres à condition que l'on dispose de lignes directes sans détour considérable.

Les taxes perçues restent intégralement acquises à chaque Administration et ne font pas objet d'un décompte.

Art. 7.

Les Administrations se concerteront sur la réduction des taxes à accorder aux communications de nuit échangées à heures fixes par voie d'abonnement et de la taxe à percevoir pour un avis téléphonique, dès que ces institutions seront admises d'un commun accord dans le trafic téléphonique entre l'Autriche et l'Italie.

Art. 8.

Sont admises des communications privées urgentes moyennant le payement d'une taxe triple de celle fixée dans les articles 5 et 6 pour les conversations non urgentes.

Art. 9.

Après accord, des relations peuvent s'ouvrir avec des pays voisins en transit par les réseaux téléphoniques des Administrations contractantes.

Art. 10.

Les dispositions du présent arrangement seront complétées par un règlement de service, qui sera arrêté et pourra être modifié d'un commun accord entre les Administrations intéressées.

Art. 11.

Le présent arrangement sera mis en exécution à la date qui sera fixée par les Administrations contractantes. Il restera en vigueur pendant

un an après que la dénonciation en aura été faite par l'une ou l'autre des Administrations intéressées.

Rome, le 24 novembre 1909.

Ainsi fait. . . . .

Vienne, le 16 novembre 1909.

Pour l'Administration des téléphones de l'Italie:

Le Directeur Général des téléphones
Salerno.

Pour l'Administration des téléphones de l'Autriche:

Le Directeur Général des postes et des télégraphes
D. Wagner.

Accord
relatif aux communications téléphoniques échangées entre l'Autriche et l'Italie sous le régime des abonnements.

Le directeur général des postes et des télégraphes, pour l'Administration des téléphones de l'Autriche, d'une part, et le directeur général des téléphones, pour l'Administration des téléphones de l'Italie, de l'autre part;

Vu l'article LXVIII, lettre *H*, du règlement télégraphique international, révision de Lisbonne;

Vu l'article VII de l'arrangement particulier conclu entre les Administrations des téléphones de l'Autriche et de l'Italie;

Ont convenu dans les dispositions suivantes:

Art. 1.

Sont admis des abonnements pour conversations échangées à heures fixes et dans la période de 9^h sr., à 6^h m.

Le tarif mensuel de ces communications en abonnement, calculé sur une durée moyenne de 30 jours, est fixé à la moitié du tarif normal prévu par les articles V e VI de l'arrangement particulier précité.

Art. 2.

La durée d'une séance d'abonnement est fixée au minimum de 2 unités (6 minutes) et au maximum de 4 (12 minutes).

Art. 3.

Pour les abonnements soumis aux tarifs calculés d'après l'article VI de l'arrangement téléphonique austro-italien, les montants relatifs seront divisés en parties égales entre les deux Administrations.

Art. 4.

Seront à suivre les dispositions exposées par l'article LXVIII, lettre H, du règlement télégraphique international, révision de Lisbonne, pour les autres modalités afférentes au dit service des abonnements.

Vienne, 19 janvier 1911.

Rome, 6 février 1911.

Pour l'Administration des téléphones de l'Italie:

Le directeur général
Salerno.

Pour l'Administration des téléphones de l'Autriche:

Le directeur général des postes et des télégraphes
D. Wagner.

176.

TURQUIE, BULGARIE.

Déclaration consulaire provisoire; signée à Constantinople, le 18 novembre/1 décembre 1909.

La Turquie du 2 décembre 1909. — Archives diplomatiques 1910. II, p. 348.

Déclaration.

Sa Majesté Impériale le Sultan, Empereur des Ottomans et Sa Majesté le Roi des Bulgares, désireux d'instituer des Consulats Généraux, Consulats et Vice-Consulats dans les territoires respectifs, ont décidé de s'entendre pour cet objet par une déclaration provisoire, en anticipation de la conclusion d'une Convention Consulaire et ont nommé à cet effet pour leurs Plénipotentiaires:

Sa Majesté Impériale le Sultan, Empereur des Ottomans, Rifaat Pacha, son Ministre des Affaires Etrangères,

Et Sa Majesté le Roi des Bulgares, le sieur Michel K. Sarafow, son Envoyé Extraordinaire et Ministre Plénipotentiaire,

Lesquels sont convenus des stipulations suivantes:

1° L'Agence commerciale ottomane (Secrétariat du Commissariat Impérial) à Philippopoli est érigée en Consulat Général de Turquie. Les Agences à Sofia, Varna, Roustchouk et Bourgas en Consulats et celle à Widdin en Vice-Consulat.

Réciproquement, les Agences Commerciales Bulgares à Constantinople et Salonique sont érigées en Consulats Généraux et les Agences à Andrinople, Monastir, Uscub et Serres en Consulats.

Les deux Gouvernements se réservent le droit d'établir à l'avenir, après une entente préalable, des Consulats dans d'autres villes que celles ci-dessus citées.

2⁰ En cas de vacance dans les fonctions consulaires ci-dessus énumérées, ainsi que dans celles qui seront créées ultérieurement les Consuls Généraux, Consuls et Vice-Consuls seront choisis, de part et d'autre, parmi ceux de carrière, c'est-à-dire qu'ils seront des Agents rétribués s'occupant exclusivement de leur mission consulaire.

3⁰ Les Consuls Généraux, Consuls et Vice-Consuls exerceront, sur la base de la réciprocité, toutes les fonctions et jouiront de tous les privilèges, exemptions et immunités qui leur seront reconnus par le Droit International Public de l'Europe.

Ils ne pourront, en aucun cas, invoquer en leur faveur le régime exceptionnel dont jouissent les Consulats Etrangers en vertu des Capitulations.

4⁰ Les objets destinés aux Consuls Généraux, Consuls et Vice-Consuls respectifs seront soumis à la vérification douanière; ils seront exempts des droits d'importation lors de la première installation de ces fonctionnaires.

5⁰ La présente déclaration provisoire sera valable pendant un an à compter de ce jour, délai à l'expiration duquel elle sera maintenue jusqu'à ce que l'une des deux Hautes Parties la dénonce.

Fait en double à Constantinople, le 18 novembre/1er décembre 1909.

(Signé): *Rifaat.*
(Signé): *M. K. Sarafow.*

177.

ITALIE, ROUMANIE.

Echange de notes diplomatiques concernant l'analyse des huiles d'olives provenant d'Italie; du $\frac{\text{29 décembre 1909}}{\text{11 janvier 1910}}$ et $\frac{\text{20 janvier}}{\text{2 février}}$ 1910.

Bolletino del Ministero degli Affari Esteri. 1910. Febbraio.

Il Ministro d'Italia in Bucarest al Ministro Rumeno degli Affari Esteri.

Monsieur le Ministre,

Au point III, *ad* n. 222, du protocole final annexé au Traité de commerce conclu le 22 novembre (5 décembre) 1906 entre l'Italie et la

Roumanie,*) il est dit que les certificats d'analyse des huiles d'olives délivrés par les Instituts scientifiques du Royaume d'Italie y autorisés d'après les accords à prendre à ce sujet entre les Gouvernements des deux Parties contractantes, seront reconnus en Roumanie, et que les huiles accompagnées par ces certificats ne seront pas soumises à de nouvelles analyses, pourvu qu'il résulte des dits certificats que l'analyse a été faite en Italie d'après les règles établies de commun accord entre les deux Gouvernements.

Afin de compléter les dispositions ci-dessus, et d'ordre de mon Gouvernement, je prie donc Votre Excellence de bien vouloir me faire connaître si le Gouvernement de Sa Majesté le Roi Carol consent à ce que les analyses des huiles d'olives à exporter en Roumanie soient faites en Italie par les mêmes Instituts scientifiques du Royaume et d'après les règles et procédés identiques établis de commun accord entre les Cabinets de Rome et de Berlin pour les huiles d'olives à exporter en Allemagne, et si, par conséquent, les autorités douanières roumaines reconnaîtront comme valables, aux fins des dispositions du paragraphe III, *ad* n. 222, du protocole final précité, les certificats délivrés sur la base de ces analyses par les Instituts dont il s'agit et rédigés par eux d'après les formulaires adoptés pour l'Allemagne: formulaires dans lesquels on remplacerait la traduction allemande par une traduction roumaine.

En cas de modification à la liste des instituts en question, que Votre Excellence trouvera annexée à la présente note, le Gouvernement italien ne manquerait pas d'en faire donner immédiatement communication à Votre département par l'entremise de cette légation.

J'ai également l'honneur de joindre ici, avec une traduction française, deux exemplaires des instructions que, conformément aux accords établis avec le Cabinet de Berlin, le Ministère italien d'agriculture, industrie et commerce a adressées aux Instituts scientifiques du Royaume autorisés à délivrer les certificats, et dans lesquelles il prescrit les règles et procédés à suivre pour le prélèvement des échantillons et pour les analyses, les mesures à prendre afin d'empêcher les fraudes, ainsi que les formulaires à employer pour les certificats. Ces instructions ont été publiées dans le bulletin officiel du 30 juillet 1908 du Ministère susdit d'agriculture, industrie et commerce.

La Roumanie s'étant cependant réservé le droit de faire vérifier, en cas de doute, l'analyse des huiles importées avec les certificats (alinéa 3 du point III, *ad* n. 222 du protocole final déjà nommé), le Gouvernement italien accepte la proposition de Votre Excellence que, dans des cas pareils, les nouvelles analyses que le Gouvernement roumain croirait nécessaires soient faites par l'Institut de chimie près l'Université de Bucarest ou par le laboratoire de chimie près l'école des ponts et chaussées à Bucarest. Ces nouvelles analyses devront être opérées d'après les règles et procédés prescrits dans les instructions ci-annexées du Ministère italien d'agriculture, industrie et commerce aux Instituts scientifiques du Royaume, et qui sont

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*) V. N. R. G. 2. s. XXXV, p. 547.

obligatoires pour ces derniers. Les frais en seront supportés par le Ministère roumain des finances, lorsqu'elles démontreront que la qualité de l'huile correspond réellement à celle indiquée dans le certificat d'analyse de l'Institut scientifique italien autorisé qui accompagnait l'envoi: dans le cas contraire, ils seront à la charge du déclarant en douane.

En attendant la réponse que vous voudrez bien me mettre à même de transmettre à mon gouvernement, je saisis, etc.

Bucarest, le 29 décembre 1909 (11 janvier 1910).

E. di Beccaria.

(Annexe).

Liste des Instituts italiens autorisés à délivrer les certificats d'analyse des huiles d'olives.

1. Laboratorio chimico centrale delle Gabelle in Roma.
2. Id. compartimentale delle Gabelle in Ancona.
3. Id. id. id. in Genova.
4. Id. id. id. in Livorno.
5. Id. id. id. in Milano.
6. Id. id. id. in Napoli.
7. Id. id. id. in Torino.
8. Id. id. id. in Venezia.
9. Id. id. id. in Verona.
10. Regia stazione chimico-agraria di Milano.
11. Id. id. di Roma.
12. Id. id. di Torino.
13. Scuola di olivicoltura ed oleificio di Bari.
14. Scuola superiore d'agricoltura di Portici.
15. Oleificio sperimentale di Spoleto.
16. Laboratorio di chimica agraria di Bologna.
17. Id. id. id. di Pisa.
18. Regia Scuola di pomologia e di orticoltura di Firenze.
19. Laboratorio chimico municipale di Lucca.
20. Id. id. di Oneglia.
21. Id. id. di San Remo.
22. Id. id. di Siena.
23. Id. del Regio Istituto tecnico di Porto Maurizio.
24. Id. della Camera di commercio di Messina.
25. Laboratorio di chimica agraria annesso al Regio vivaio di viti americane in Palermo.
26. Regio laboratorio di chimica agraria in Udine.
27. Regia cattedra di viticoltura in Osimo.
28. Id. ambulante di viticoltura in Castellammare Adriatico.
29. Regia Scuola pratica di agricoltura in Sassari.

Il Ministro Rumeno Degli Affari Esteri al Ministro d'Italia in Bucarest.

Monsieur le Marquis,

Par la note de Votre Excellence en date du 29 décembre 1909 (11 janvier 1910), vous avez bien voulu me demander, d'ordre de Votre Gouvernement, si en vue de l'exécution du point III, *ad* n. 222, du protocole final du Traité de commerce roumain-italien en vigueur, concernant l'analyse des huiles d'olives provenant d'Italie, le Gouvernement roumain était disposé à accepter comme base l'accord intervenu au même sujet entre les gouvernements d'Italie et d'Allemagne.

Cet accord porte sur les Instituts d'Italie autorisés à faire l'analyse des huiles d'olives et à en délivrer des certificats valables pour les autorités allemandes, sur la méthode d'analyse et sur les modèles des certificats. La liste des instituts précités était annexée à la note de Votre Excellence, avec réserve de donner immédiatement communication à mon département des modifications qui y seraient éventuellement introduites à l'avenir. La méthode d'analyse et les modèles des certificats se trouvent publiés dans le bulletin officiel du Ministère de l'agriculture, de l'industrie et du commerce d'Italie, fascicule du 30 juillet 1908, pages 468 à 481, dont Vous avez bien voulu m'envoyer deux exemplaires avec traduction française de la partie afférente.

En réponse à Votre demande, j'ai l'honneur de vous informer que le Gouvernement roumain accepte l'accord précité entre l'Italie et l'Allemagne comme base pour les rapports entre la Roumanie et l'Italie au même sujet. En conséquence, il reconnaît l'autorité des mêmes instituts d'Italie autorisés par le Gouvernement Royal d'Italie à faire l'analyse des huiles d'olives de provenance italienne à importer en Roumanie et à en délivrer des certificats; il reconnaît bonne la même méthode d'analyse et les mêmes modèles de certificats, sauf à remplacer le texte allemand par un texte roumain. Ci-joint le texte roumain.

Quant à l'exercice du droit réservé, par la convention roumaine-italienne, aux autorités roumaines de vérifier, en cas de doute, l'analyse des huiles importées avec les certificats mentionnés, j'ai l'honneur de vous informer que le Gouvernement Royal a choisi, à cet effet, l'Institut de chimie près l'Université de Bucarest ou le laboratoire de chimie près l'école des ponts et chaussées à Bucarest. En ce cas, les analyses seront faites suivant la même méthode que celle prescrite pour les Instituts scientifiques d'Italie et publiée dans le bulletin susmentionné du Ministère italien de l'agriculture, de l'industrie et de commerce. Les frais en seront supportés par le Ministère roumain des finances lorsque la vérification en question démontrera que la qualité des huiles correspond à celle indiquée dans le certificat italien; dans le cas contraire, les frais seront à la charge du déclarant en douane.

En vous priant de vouloir bien porter ce qui précède à la connaissance du Gouvernement Royal d'Italie, je saisis, etc.

Bucarest, le 20 janvier (2 février) 1910.

Alexandre Djuvara.

178.

ITALIE, PAYS-BAS.

Echange de notes diplomatiques concernant l'importation des produits pharmaceutiques; des 3 et 4 janvier 1910.

Gazzetta ufficiale 1910. No. 18.

I.

Il ministro degli affari esteri d'Italia
al ministro dei Paesi Bassi in Roma.

Rome, 3 janvier 1910.

Monsieur le ministre,

Dans le but d'arrêter d'une façon précise et définitive des principes pour l'application de l'article 14 des dispositions préliminaires du tarif douanier italien, en ce qui concerne l'importation des produits médicinaux et des médicaments composés (spécialités pharmaceutiques) provenant de la Hollande, j'ai l'honneur de porter à votre connaissance ce qui suit:

Le Gouvernement italien, se conformant à l'avis du Conseil supérieur de santé et partant du principe que les dispositions réglant en Hollande la fabrication des produits médicinaux et des spécialités pharmaceutiques offrent, au point de vue de la protection sanitaire, des garanties sérieuses et équivalentes en efficacité à celles qui sont assurées par la législation italienne, consent d'une façon générale et sans la nécessité de mesures particulières au point de vue sanitaire, à la libre introduction dans le royaume des produits médicinaux et des spécialités pharmaceutiques fabriquées en Hollande, pourvu que le Gouvernement des Pays-Bas applique, pour l'introduction en Hollande, un traitement identique, au point de vue sanitaire, aux produits médicinaux et aux spécialités pharmaceutiques fabriquées en Italie.

Il reste entendu que les produits médicinaux et les médicaments composés (spécialités pharmaceutiques) fabriqués en Hollande devront pour la libre entrée en Italie, se conformer aux dispositions qui règlent le commerce des produits médicinaux et des médicaments composés en Italie.

Il est nécessaire en outre de fixer dès maintenant:

1⁰ que tous récipients contenant un médicament composé (spécialités pharmaceutiques) devra porter une étiquette avec l'indication exacte:

a) des éléments composant le produit avec leur appellation ordinaire en langage médical (à l'exclusion des formules chimiques);

b) de la dose de ces éléments constitutifs;

2⁰ il est convenu que parmi les produits médicinaux et les médicaments composés (spécialités pharmaceutiques), dont il est question ci-dessus, ne doivent pas être compris les sérums, les virus vaccins, toxines, et autres produits semblables;

3⁰ enfin il est entendu que chaque Gouvernement se réserve *le droit* d'interdire dans des cas exceptionnels et pour des motifs spéciaux d'hygiène publique, l'introduction sur son territoire d'un des produits médicinaux ou des médicaments composés, à condition de donner, dans ce cas, avis immédiat de cette décision à l'autre Gouvernement en indiquant en même temps les faits et les motifs qui ont donné lieu à la prohibition.

Je vous prie de vouloir bien me donner acte de la présente communication.

Veuillez agréer, etc.

Guicciardini.

II.

Il ministro dei Paesi Bassi in Roma al ministro degli affari esteri d'Italia

Rome, le 4 janvier 1910.

Monsieur le ministre,

J'ai l'honneur de prendre acte de la note que Votre Excellence a bien voulu m'adresser en date du 3 janvier dernier au sujet des principes qui régleraient à l'avenir, au point de vue sanitaire, l'importation des produits médicinaux et des médicaments composés (spécialités pharmaceutiques) des Pays-Bas en Italie et viceversa.

Ces principes seraient les suivants:

1⁰ que les produits médicinaux et les médicaments composés (spécialités pharmaceutiques) fabriqués aux Pays-Bas devront, pour la libre entrée en Italie, se conformer aux dispositions qui règlent le commerce des produits médicinaux et des médicaments composés en Italie;

2⁰ que tout récipient contenant un médicament composé (spécialités pharmaceutiques) devra porter une étiquette avec l'indication exacte:

a) des éléments composant le produit avec leur appellation ordinaire en langage médical (à l'exclusion des formules chimiques);

b) de la dose de ces éléments constitutifs;

3⁰ que parmi les produits médicinaux et les médicaments composés (spécialités pharmaceutiques) dont il est question ci-dessus, ne doivent pas être compris les sérums, virus vaccins, toxines et autres produits semblables;

4⁰ que chaque Gouvernement réserve le droit d'interdire, dans des cas exceptionnels et pour des motifs spéciaux d'hygiène publique, l'introduction sur son territoire d'un des produits médicinaux et des médicaments composés à condition de donner, dans ce cas, avis immédiat de cette décision à l'autre Gouvernement, en indiquant, en même temps, les faits et les motifs, qui ont donné lieu à la prohibition.

Le Gouvernement de la Reine m'autorise à déclarer qu'il accepte ces principes.

Veuillez agréer, etc.

H. de Weede.

179.

ARGENTINE, URUGUAY.

Protocole concernant le Rio de la Plata; signé à Montevideo, le 5 janvier 1910.

República Argentina. Tratados, Convenciones etc. Publicación oficial. IX (1912), p. 624.

Reunidos en el Salón del Ministerio de Relaciones Exteriores los Señores, Dr. Roque Saenz Peña, Enviado Extraordinario y Ministro Plenipotenciario de la República Argentina, en Misión especial, debidamente autorizado por su Gobierno, y el Dr. Gonzalo Ramírez, Enviado Extraordinario y Ministro Plenipotenciario, debidamente autorizado por el Gobierno de la República Oriental del Uruguay, después de un amistoso cambio de ideas y sin perjuicio de ulteriores convenciones entre ambas naciones, declaran:

1⁰. Los sentimientos y aspiraciones de uno y otro pueblo son recíprocos en el propósito de cultivar y mantener los antiguos vínculos de amistad, fortalecidos por el común origen de ambas naciones.

2⁰. Con el propósito de dar mayor eficacia á la declaración que precede y de eliminar cualquier resentimiento que pudiera haber quedado con motivo de pasadas divergencias, convienen en que, no habiendo tenido ellas por móvil inferirse agravio alguno, se las considera como insubsistentes y que, por lo tanto, en nada amenguan el espíritu de armonía que los anima, ni las consideraciones que mutuamente se dispensan.

3⁰. La navegación y uso de las aguas del Río de La Plata, continuará sin alteración, como hasta el presente, y cualquier diferencia que con ese motivo pudiese surgir, será allanada y resuelta con el mismo espíritu de cordialidad y buena armonía que han existido siempre entre ambos países.

Firmado y sellado en doble ejemplar, por ambas partes, en la ciudad de Montevideo, Capital de la República Oriental del Uruguay, á los cinco días del mes de Enero del año mil novecientos diez.

(L. S.) *Roque Saenz Peña.*
(L. S.) *Gonzalo Ramírez.*

180.

JAPON, CHINE.

Arrangement postal, signé à Péking, le 9 février 1910, suivi d'un Arrangement concernant l'échange des colis postaux, signé à Péking à la date du même jour.

Publication officielle.

Agreement setting forth the Relations established between the Imperial Postal Administration of Japan and the Imperial Postal Administration of China.

Article I.

Exchange of Mails.

1. There shall be between the Imperial Administration of Japan and the Imperial Administration of China a regular exchange of postal articles of all kinds—ordinary, registered, international, and in transit, closed or *à découvert*—by means of any transport, ordinary or special, now established or hereafter to be established, which each Administration may have at its disposal.

2. The exchange of mails between the two Administrations will take place through the Japanese Post Offices established in the treaty ports and the Chinese Post Offices established in the same ports. The following are also recognised by the Chinese Administration as Offices of exchange: the Japanese Post Office in the Legation Quarter at Peking, under the same conditions as other foreign Post Offices therein opened; the Japanese Postal Agency at Tangku, for the exchange of steamer mails; and the Japanese Post Offices opened in Tatungkow, Antung, Newchwang, Liaoyang, Moukden, Tiehling, and Changchun.

3. The remitting of mails, closed or *à découvert*, from one Administration to the other will take place at the (corresponding) Offices (of exchange) or any other authorised places for exchange (fixed on by mutual consent), and will be made from hand to hand between agents regularly appointed for this duty.

Article II.

Closed Mails by Rail.

1. Closed mails sent from or through Chinese Post Offices and destined for Chinese, Japanese, or foreign Post Offices established in or out of China, to be conveyed by means of Japanese railways in China, shall be consigned to or received from the said railways through the intermediary of the Japanese Post Offices at those places of exchange where Japanese Post Offices exist.

2. Closed mails sent from or through Japanese Post Offices and destined for Japanese, Chinese, or foreign Post Offices established in or out of China, to be conveyed by means of Chinese railways in China, shall be consigned to or received from the said railways through the intermediary of the Chinese Post Offices at places of exchange.

3. At those places where there are no Offices of exchange the mails above cited will be handed direct to or from the responsible officers on the trains, under local arrangements to be made by the officials of the two contracting Postal Administrations.

Article III.

Closed Mails by Steamers.

1. Closed mails sent from or through Chinese Post Offices and destined for Chinese, Japanese, or foreign Post Offices established in or out of China, to be conveyed by means of steamers subsidised by the Imperial Japanese Government or generally those steamers in the mail service of the Empire of Japan, shall be embarked on or received from the said steamers through the intermediary of the Japanese Post Offices at the places of exchange or direct to the responsible officers on board at places where no Japanese Office of exchange exists.

2. Closed mails sent from or through Japanese Post Offices and destined for Japanese, Chinese, or foreign Post Offices established in or out of China, to be conveyed by means of steamers in the mail service of China, shall be embarked on or received from the said steamers through the intermediary of the Chinese Post Offices at the places of exchange.

Article IV.

Remuneration for Steamers.

1. In the case of those Japanese steamers which load Chinese mails to or from non-opened ports, they shall enjoy the same privileges, facilities, and immunities as other flag steamers rendering similar services. The Chinese mails they carry shall not be liable to transit charges.

2. While Chinese mails loaded on board Japanese steamers for conveyance between open ports shall be liable to transit charges payable to the Japanese Administration, such steamers shall not be entitled to claim for the conveyance in question the same privileges, facilities, and immunities as are specially granted to other flag steamers for similar services rendered without debiting the Chinese Administration with transit charges.

Article V.

Tariffs.

Each Administration fixes its own tariffs.

It is understood that for mail matter exchanged between its own Offices in China the Imperial Japanese Administration will not apply a tariff of postage lower than that adopted by the Imperial Chinese Administration.

The two Administrations will communicate to each other their tariffs.

Article VI.

Postage Stamps.

Each Administration will use its own postage stamps to frank its own mail matter.

It is understood, however, that mail matter originating in the localities mentioned in Article I, § 2, but destined for Chinese inland places, shall be franked in Chinese stamps at Chinese domestic rate; otherwise, it shall be liable to be taxed by the Chinese Administration as unpaid correspondence.

Article VII.

Correspondence *à découvert.*

1. The Imperial Chinese Post Office undertakes, free of charge, the transmission to, and the delivery at, all places in China steam served by railways or steamers where one of its establishments is or may hereafter be established of all correspondence for China posted in Japan, Korea, or the Leased Territory of Kwantung and prepaid in Japanese postage stamps at the domestic rates of Japan, as well as of all correspondence for China posted in any country of the Postal Union and prepaid in postage stamps of the country of origin at the Union rates, if the above correspondence be handed over to the said Post Office *à découvert* by the Imperial Japanese Post Office in China; but these articles, letters and postcards excepted, if addressed to non-steam-served places, will be liable to the domestic charge laid down in the Chinese tariff. Further, any correspondence above mentioned, if addressed to inland places where the Chinese Post Office does not yet function, will be forwarded to destination by the *min-chū* at the risk and cost of the addressee.

2. The Imperial Japanese Post Office in China undertakes, free of charge, the transmission to, and the delivery at, destination of all correspondence for Japan, Korea, and the Leased Territory of Kwantung posted in China and prepaid in Chinese postage stamps at the rates adopted by the Japanese Post Offices in China for correspondence to those places, and, subject to transit charges, the transmission of all correspondence for countries of the Postal Union posted in China and prepaid in Chinese stamps at the rates stipulated in Article 5 of the Universal Postal Convention.

Article VIII.

Taxed Correspondence.

The correspondence mentioned in the preceding Article VII, whether unpaid or insufficiently prepaid, shall be dealt with in accordance with the stipulations provided for in the said Article. It is provided that on all unpaid or insufficiently prepaid correspondence addressed for delivery in China or in Japan, Korea, or the Leased Territory of Kwantung, either Administration shall collect from the addressee a charge equal to double the amount of the deficiency according to the tariff of the country of origin.

Article IX.

Newspapers, etc., with Special Marks.

Newspapers and periodical publications bearing the special mark „under contract," originally posted in Japan, Korea, or the Leased Territory of Kwantung for delivery in their interior and handed over to the Chinese Post Office as redirected articles, shall be sent to destination subject to the stipulations under Article VII of this Agreement.

Article X.

Postage and Weights.

As regards correspondence posted in China and addressed for delivery in Japan, Korea, or the Leased Territory of Kwantung, the Postal Administration of China shall not adopt rates of postage lower than those which are chargeable in the Japanese Post Office in China, nor the maximum limits of weight and dimensions exceeding those which the said Offices adopt.

The rates of postage as well as the maximum limits of weight and dimensions to be observed in respect of correspondence posted in China and destined for any country of the Postal Union shall be in conformity with the stipulations of the Union.

Article XI.

Transport Services.

Each of the contracting Administrations shall securely convey the mails of the other Administration by the most direct route and by the most rapid means of conveyance at its disposal.

Each Administration will communicate to the other, from time to time, the organisation and movements of the railways, steamers, and other services utilised for the conveyance of the mails of the other Administration as well as the proposed time of despatch and arrival of its own mails.

Article XII.

Transit Charges on Closed Mails.

1. Chinese and Japanese closed mails conveyed by means of Japan or China by virtue of the stipulations of Article I are subject to the territorial or maritime transit charges at the rates provided for in the

Universal Postal Convention, to be credited to the Administration whose services participate in the conveyance. It is provided, however, that for railway conveyance within the Empire of China half of the Union rates shall apply to all services over a distance not exceeding 1,000 miles.

2. Any conveyance on the Yangtze-kiang is considered as maritime transit.

3. It is further understood that

1⁰. Sea conveyance over a distance not exceeding 300 nautical miles is gratuitous if the Administration concerned already receives, on account of the mails conveyed, the remuneration applicable to territorial transit;

2⁰. Charges for transport of mails by means of services or ships independent of the Japanese or Chinese Administrations will be settled under the terms agreed between the interested parties.

Article XIII.

Charges on *à découvert* Correspondence.

1. Correspondence sent *à découvert* from China through the intermediary of the Japanese Post Office for Postal Union countries by virtue of Article VII shall be subject, for the benefit of the Postal Administration of Japan, to the transit charges at the rate of closed mails provided for in the Universal Postal Convention.

2. Chinese correspondence sent in closed mails or *à découvert* by the Transsiberian route to the countries of the Postal Union through the intermediary of the Imperial Japanese Post Office will be liable to the transit charges provided by mutual *entente* between the various Administrations concerned for this special route.

Article XIV.

Transit Statistics.

The transit charges provided for in the preceding two Articles shall be settled triennially between the Postal Administration of Japan and of China on the basis of the statistics to be taken every three years during the first 28 days of the month of May or of November alternately, according to the usual procedure followed between Administrations of the Postal Union.

Article XV.

Letters with Declared Value.

The exchange of letters with declared value of contents will be made the subject of a special arrangement between the Japanese and the Chinese Administrations as soon as circumstances may permit the Chinese Administration to organise this service.

Article XVI.

Responsibility: Registered Articles.

In case of the loss of a registered article, domestic or international, the Postal Administration in the service of which the loss took place

shall be held responsible in accordance with the stipulations of the Universal Postal Convention.

Article XVII.

Responsibility: Closed Mails.

In case where a closed mail has been lost or damaged, or its contents abstracted, the Postal Administration in the service of which the loss, damage, or abstraction took place shall assume the responsibility in accordance with the stipulations of the preceding Article only in respect of the missing registered articles contained in the said mails.

Article XVIII.

Extent of Postal Agreement.

The stipulations of the Universal Postal Convention, as well as the Regulations for the execution of the above Convention, shall remain applicable as regards every postal relation between the Postal Administration of Japan and the Postal Administration of China not provided for by the Articles of the present Agreement.

Article XIX.

Duration of Postal Agreement.

The present Agreement shall come into operation on the 1st April 1910, and shall remain in force for an indefinite period. However, the two contracting Administrations are, at any time by common consent, at liberty to introduce in the present Agreement any such modifications as they may find necessary, or to bring the Agreement to an end at six months notice.

The present Agreement shall supersede, on the day on which it comes into operation, the Mail Service Provisional Arrangement between Japan and China, signed at Peking on the 18th May 1903.

Done in duplicate and signed at Peking on the 9th February 1910:

In the name of the
Postal Administration of Japan:

K. Honda,
First Secretary of the
Japanese Legation at Peking.

In the name of the
Postal Administration of China:

T. Piry,
Secrétaire Général des
Postes Impériales de Chine.

Approved:

H. Ijuin,
Envoy Extraordinary and Minister
Plenipotentiary of Japan at Peking.

Robt. E. Bredon,
Acting Inspector General of
Customs and Posts.

Agreement regulating the Exchange of postal parcels between the Imperial Postal Administration of Japan and the Imperial Postal Administration of China.

The exchange of postal parcels between the Imperial Postal Administration of Japan and the Imperial Postal Administration of China shall be regulated according to the conditions hereunder stated.

Chapter I. Parcels *à découvert*.

Article I.

Places of Exchange.

The exchange of postal parcels, ordinary or of declared value, shall take place through the indermediary of the Japanese Post Offices established in China and the Chinese Post Offices established in the same localities as these Japanese Post Offices, the places of exchange being the same as those enumerated in Article I of the Postal Agreement concluded between the two Administrations on the 9th February 1910.

Article II.

Weights and Dimensions.

The maximum weight of a parcel is fixed at $12^1/_2$ lb. (1,500 mommé), and the maximum dimensions at 60 centimetres (2 shaku) in any one direction.

The following exceptions, however, will be made:

1°. The limit of weight for parcels destined for Offices of the Chinese Administration not connected by railway or steamers shall be 3 kilogrammes (800 mommé), and the volume must not exceed 25 cubic decimetres (1 cubic shaku).

2°. Parcels containing umbrellas, walking-sticks, charts, plans, and such-like articles shall be accepted if the dimensions do not exceed 1 metre (3 shaku 3 sun) in length and 20 centimetres (6.5 sun) in breadth or depth.

The limits in weight, dimensions, and volume may be hereafter increased by mutual consent between the two Administrations.

Article III.

Transmission.

1. The Imperial Chinese Post Office undertakes the transmission to, and delivery at, any place where one of its establishments is or may hereafter be established of all parcels for China posted in Japan, Korea, or the Leased Territory of Kwantung and prepaid in Japanese postage stamps at the rate of postage provided for in Article IV, and handed over to the said Office *à découvert* by Imperial Japanese Post Offices in China.

2. Imperial Japanese Post Offices in China undertake the transmission to, and the delivery at, destination of all parcels for Japan, Korea, or

the Leased Territory of Kwantung posted in China and prepaid in Chinese postage stamps at the rate of postage provided for in Article IV, and handed over to the said Office *à découvert* by the Imperial Chinese Post Office.

3. By measure of exception, however, postal parcels with declared value will only be transmitted through the intermediary of the Chinese Post Office to certain designated places, a revised list of which will from time to time be supplied to the Imperial Japanese Administration.

4. The value declared on an insured parcel exchanged *à découvert* will not exceed 500 dollars (yen).

Article IV.

Postage.

1. The rates of postage on parcels *à découvert* mentioned in Article III and the share to be allotted thereof to each Administration are as follows:

	Japanese Post Office Share. $	Chinese Post Office Share. $	Total Postage. $
Parcels not over 200 mommé (1 lb. 10 oz.)	0.30	0.15	0.45
Parcels over 200 mommé but not over 400 mommé ($3^1/_2$ lb.) . . .	0.35	0.20	0.55
" 400 mommé but not over 600 mommé (5 lb.)	0.40	0.25	0.65
" 600 mommé but not over 900 mommé ($7^1/_2$ lb.) . . .	0.50	0.30	0.80
" 900 mommé but not over 1,200 mommé (10 lb.) . . .	0.60	0.40	1.00
" 1,200 mommé but not over 1,500 mommé ($12^1/_2$ lb.) . . .	0.70	0.50	1.20

By mutual consent between the two Administrations, these rates may be altered according to the amounts each Administration may desire to collect.

2. Prepayment of postage on postal parcels shall be obligatory before departure; but the fee for delivery, if necessary, shall be payable by the addressee.

3. Parcels destined for places in China not connected by railway or steamer, although fully prepaid at the rates provided in Article IV, may be further charged, for transmission to places beyond railway or steamer services, at the expense of the addressee, supplementary taxes, the amount of which shall conform to the published tariff of the Chinese Administration for its domestic parcels.

4. It is understood that the Japanese Administration shall not tax parcels exchanged between its Offices in China at rates lower than those charged by the Chinese Administration.

Article V.

Insurance Fee.

The insurance fee on parcels of declared value shall be at the rate of 20 cents (20 sen) on parcels up to 10 dollars (yen) value, and 10 cents (sen) increase for each additional 10 dollars (yen) value.

Half of this fee shall accrue to the Administration performing transmission.

Article VI.

Parcels to or from a Third Country.

Parcels posted in one of the two contracting parties and sent through the other to a third country, or parcels posted in a third country and sent through one of the contracting countries to the other, may be exchanged between the two Postal Administrations of Japan and of China, in accordance with the stipulations of the preceding Articles.

It is provided that Chinese parcels for a third country have to pay the Chinese domestic rate, and in addition the rates as indicated in Table A drawn up by the Japanese Office.

The above provisions shall also apply to parcels exchanged between a third country and one of the two contracting countries and subsequently redirected or sent back to the other of the contracting countries.

Article VII.

Parcel Bill.

Parcels exchanged *à découvert* must be accompanied by a Parcel Bill, which shall be made out at the despatching Office of exchange in conformity with the specimen provided for in the Union Parcel Post Convention. Customs Declarations and, if any, other documents must be securely attached to the Parcel Bill.

The amount to be entered on the Parcel Bill shall be converted into French currency at the rate of 40 cents (sen) = 1 franc.

Article VIII.

Customs Declaration.

Every parcel *à découvert* must be accompanied by a Customs Declaration, giving the name, quantity, weight, and value of its contents.

Every parcel with declared value must bear on the Customs Declaration, and also on the address side of the parcel, a statement of the insured sum, which must be expressed by the sender in a very conspicuous manner in the money of the country of origin—dollars and cents, or yen and sen.

Article IX.

Customs Formalities.

The Customs formalities in China in respect of the parcels to be handed over *à découvert* to the Imperial Japanese Post Office in China

by the Imperial Chinese Post Office and *vice versâ* shall always be fulfilled by the Imperial Chinese Post Office on the same conditions as other international parcels to or from its own service.

Chapter II. Closed parcel mails.

Article X.

Exchange.

The exchange of closed parcel mails shall take place between the places of exchange as defined in Article I of Chapter I of this Agreement.

It is understood that at railway stations where no Post Offices of exchange exist, suitable local arrangements will be made by the officials of the contracting Administrations for the remitting and landing of closed parcel mails at these stations on the same principles as for ordinary closed mails.

Article XI.

Transmission.

The Postal Administration of China undertakes to convey all closed parcel mails exchanged between Japan, Korea, the Leased Territory of Kwantung, and an Imperial Japanese Post Office in China, between the Imperial Japanese Post Offices in China as well as between a third country and an Imperial Japanese Post Office in China, by means of railways, steamers, and other services, now established or hereafter to be established, which the said Administration may have at its disposal for the conveyance of its own parcel mails.

The Postal Administration of Japan undertakes to convey similarly all closed parcel mails exchanged between the Imperial Chinese Post Offices as well as between an Imperial Chinese Post Office and a third country.

The value declared on an insured parcel included in the closed parcel mails mentioned in the preceding paragraphs delivered for transmission to a Japanese or a Chinese Post Office, must not exceed 500 dollars (yen).

Article XII.

Transit Rates.

Chinese or Japanese closed parcel mails conveyed by means of the services of Japan or China by virtue of the stipulations in Article XI are subject to the territorial or maritime transit charges at the rates provided for in the Union Parcel Post Convention, to be credited to the Administration whose services participate in the conveyance. It is provided that, as regards the conveyance by railways in China, a half of the Union rates shall apply to the services at any distance not exceeding 1,000 miles.

Besides the above charges, every insured parcel, if any, included in the closed parcel mails mentioned in the preceding paragraph, is subject to the territorial or maritime insurance fee at the rates provided for in the aforesaid Convention, to be credited to the Administration which takes part in the conveyance.

Article XIII.

Way Bill.

Closed parcel mails shall be accompanied by a Way Bill, on which the despatching Office of exchange will enter the number, origin, destination, and weight of each parcel contained therein, and, in the case of an insured parcel, its declared value; this Way Bill will be handed over by the said Office to the intermediate Office of exchange.

Chapter III. Accounts.

Article XIV.

Quarterly Accounts.

Each Administration shall cause each of its exchanging Offices to prepare an account quarterly, for all the parcels *à découvert* and the closed parcel mails received from the exchange Offices concerned of the other Administration, on the basis of the Parcel Bills and Way Bills respectively mentioned in Articles VII and XIII.

Article XV.

General Annual Accounts.

The quarterly accounts mentioned in the preceding Article, after having been verified and accepted, on both sides, by the respective Post Offices, shall be included in the General Annual Account by the Administration to which the balance is due.

Chapter IV. Responsibility.

Article XVI.

Loss or Damage.

In case where an uninsured or insured parcel, whether domestic or international, has been lost or damaged or its contents abstracted, the Postal Administration in the service of which the loss, damage, or abstraction took place shall be held responsible in accordance with the stipulations of the Union Parcel Post Convention.

Chapter V. Customs formalities for parcels to be delivered by or posted at the Japanese Post Office in China direct.

Article XVII.

Customs Report and Payment of Duty.

The Japanese Post Office will send a detailed report to the Customs, giving the name and value of the contents, address, marks, quantity, and provenance of each parcel received, and unless as provided under Article XXII the parcel is to be examined, the Customs will immediately enter, on that report, the duty payable and return the report to the Post Office. The Post Office will then either direct the addressee to pay the duty into the

Customs Bank and procure Customs Release Permit, or will itself collect such duty from the addressee.

Article XVIII.

Duty under Half a Tael.

Any Customs duty under half a tael per parcel will not be collected. It is, however, provided that in case two or more parcels containing similar merchandise and sent from the same sender to the same addressee have been received by the same mail the total amount of the Customs duty exceeds half a tael, the duty may be collected in respect of the whole of such parcels.

Article XIX.

Customs Release of Parcels.

No parcel is to be transmitted or delivered until either Customs Release Permit has been exhibited to, or the duty collected by, the Japanese Post Office, except in the case of parcels which have to be immediately redirected or sent back to Japan or a third country.

Article XX.

Monthly Remittance of Duty Collection.

The Customs duty collected by the Post Office will be remitted monthly to the Customs, and a return of the parcels on which the duty could not be collected will be supplied.

Article XXI.

Refund of Duties.

It is understood that the import or export duty originally collected on a parcel subsequently returned to the Office of origin will be refunded by the Customs provided the parcel is recognised by the latter to be still in its original packing and has been unopened.

Article XXII.

Customs Examination.

Whenever examination is necessary the Post Office will either send the parcel to the Customs or the Customs will send Examiners to the Post Office to open and examine the parcel in question in company with the postal officials, and the Post Office will admit such Examiners and give them every facility.

Chapter VI. Application of Union Convention.

Article XXIII.

The stipulations of the Union Parcel Post Convention and the Regulations thereof shall remain applicable as regards every parcel post relation between the Empire of Japan and the Empire of China not provided for by the Articles of the present Agreement.

Chapter VII. Duration of Agreement.

Article XXIV.

The present Agreement shall come into operation on the 1st April 1910, and shall remain in force for an indefinite period. The two contracting Administrations, however, are at liberty, at any time by mutual consent, to introduce in the present Agreement any such modifications as they may find necessary or to bring the Agreement to an end at six months notice.

The present Agreement shall supersede, on the day on which it comes into operation, the Parcel Post Provisional Arrangement between Japan and China, signed at Peking on the 18th May 1903, and the Understanding appertaining thereto.

Done in duplicate and signed at Peking on the 9th February 1910:

In the name of the
Postal Administration of Japan:
K. Honda,
First Secretary of the
Japanese Legation at Peking.

In the name of the
Postal Administration of China:
T. Piry,
Secrétaire Général des
Postes Impériales de Chine.

Approved:

H. Ijuin,
Envoy Extraordinary and Minister
Plenipotentiary of Japan at Peking.

Robt. E. Bredon.
Acting Inspector General of
Customs and Posts.

181.

DANEMARK, FRANCE.

Articles additionnels à la Convention de commerce du 9 février 1842;*) signés à Copenhague, le 9 février 1910.

Lovtidenden 1910. No. 6.

Les soussignés Erik Julius Christian de Scavenius, Ministre des Affaires Etrangères de Sa Majesté le Roi de Danemark, et Charles Prosper Maurice Horric de Beaucaire, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République Française à Copenhague, dûment autorisés à cet effet, sont convenus des articles additionnels suivants à la convention de commerce et de navigation signée à Paris le 9 février 1842.

Article 1.

Les sujets danois en France et les citoyens français en Danemark, pour ce qui regarde l'exercice des droits civils ainsi que pour l'exercice

*) V. N. R. G. III, p. 81.

des métiers et des professions industrielles ou commerciales, jouiront des mêmes droits, privilèges, libertés, faveurs, immunités et exemptions qui sont ou qui seront accordés aux nationaux et ne pourront être assujettis à des taxes ou impôts autres ni plus élevés que ceux dont sont ou pourront être grevés les nationaux.

Article 2.

Le droit de patente à payer en Danemark par les voyageurs de commerce des maisons établies en France ne pourra dépasser celui payé par les voyageurs de commerce des autres nations les plus favorisées à cet égard. Les voyageurs de commerce des maisons établies en Danemark seront soumis en France à un impôt équivalent.

Article 3.

Les présents articles auront la même force et valeur que s'ils faisaient partie intégrale de la convention précitée du 9 février 1842; ils seront appliqués dans les mêmes limites géographiques et cesseront leurs effets en même temps que la dite convention en cas où celle-ci viendrait à être dénoncée.

Article 4.

Les présents articles expédiés en double entreront en vigueur un mois après leur signature.

Copenhague, le 9 février 1910.

(L. S.) *Erik Scavenius.*
(L. S.) *Horric de Beaucaire.*

182.

ITALIE, FRANCE.

Déclaration relative à la reconnaissance réciproque de la jauge indiquée dans les papiers de bord des navires respectifs; signée à Paris, le 16 février 1910.

Gazzetta ufficiale del Regno d'Italia 1910. No. 76.

Le Gouvernement de Sa Majesté le Roi d'Italie et le Gouvernement de la République française, considérant que le règlement français, sur la jauge des navires est identique au règlement anglais établi par le Merchant Shipping Act de 1894 et considérant que le système adopté en Italie par la loi et le règlement du 21 décembre 1905 est identique au système anglais, de sorte que les procédés employés pour la détermination de la

jauge des navires en Italie et en France sont identiques au procédé anglais, ont résolu d'établir un accord pour la reconnaissance réciproque de la jauge indiquée dans les papiers de bord des navires respectifs et, à cet effet, ont autorisé les soussignés à conclure la convention suivante:

Art. 1er

Les navires italiens, à voile et à vapeur, dont la jauge aura été établie en conformité du règlement du 21 décembre 1905, n. 631, seront admis dans les ports français, les navires français, à voile et à vapeur, dont la jauge aura été établie conformément au décret du 24 mai 1873 et aux modifications prévues par le décret du 22 juin 1904 seront admis dans les ports italiens, sans aucune opération de mesurage; les données inscrites dans leurs papiers de bord relativement à la jauge étant considérées comme équivalentes.

Dans le cas où des différences importantes seraient constatées entre la jauge italienne et la jauge française, la douane française aurait le droit de rectifier le tonnage des bâtiments italiens et, de son côté, l'administration maritime italienne pourrait, dans la même hypothèse, modifier la jauge des navires français. Ces rectifications n'auraient d'effet, d'ailleurs, que pour le voyage au cours duquel la nécessité du relèvement de la jauge aurait été reconnue et constatée.

Art 2.

Les navires italiens, qui n'auront pas encore été munis du certificat de jauge prévu par l'article 36 du règlement précité du 21 décembre 1905, continueront à être admis dans les ports français aux mêmes conditions qu'auparavant, en conformité des accords passés entre les deux Gouvernements en 1883 et 1889.

Art. 3.

La présente convention, qui abroge les accords précédents, entrera en vigueur immédiatement après sa publication.

Fait en double exemplaire, à Paris, le 16 février 1910.

(L. S.) *A. di San Giuliano.*
(L. S.) *S. Pichon.*

183.

ITALIE, BULGARIE.

Convention consulaire; signée à Sophia, le 25 février/10 mars 1910.*)

Gazzetta ufficiale 1912. No. 243.

Convention consulaire entre l'Italie et la Bulgarie.

Sa Majesté le Roi d'Italie et Sa Majesté le Roi des Bulgares, désirant, d'un commun accord, conclure une convention consulaire ont nommé à cet effet pour Leurs plénipotentiaires, savoir:

Sa Majesté le Roi d'Italie:

Son Excellence Monsieur Fausto Cucchi Boasso, Officier de l'Ordre des Saints Maurice et Lazare, Commandeur de l'Ordre de la Couronne d'Italie, Grand' Croix de l'Ordre Bulgare du Mérite Civil etc., etc. Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Sophia;

Sa Majesté le Roi des Bulgares:

Monsieur le Lieutenant Général Stéphane Paprikoff, Grand' Croix de l'Ordre National pour le Mérite Militaire, Grand Officier de l'Ordre Royal de Saint Alexandre en brillants, etc., etc., Son Ministre des Affaires Etrangères et des Cultes.

Lesquels, après s'être communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des articles suivants:

Titre Premier.

Etablissement des Consuls.

Art. 1er

Chacune des Hautes Parties Contractantes aura le droit d'établir sur le territoire de l'autre des Consuls Généraux, des Consuls, Vice consuls et Agents Consulaires nommés par Elle conformément à ses lois et coutumes.

Art. 2.

Chacune des Hautes Parties Contractantes pourra établir chez l'autre des Consuls et Agents Consulaires dans toutes les villes, ports et localités où Elle jugera utile aux intérêts de ses ressortissants et de son commerce et Elle pourra déterminer également les circonscriptions où leur compétence s'exercera.

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*) Les ratifications ont été échangées à Sophia, le 17 septembre 1912.

Art. 3.

Toutefois, chacune des Hautes Parties Contractantes demeurera libre de ne pas admettre des Consuls ou Agents Consulaires de l'autre Partie dans les territoires ou localités qu'Elle jugera bon, sous condition de ne pas y autoriser davantage l'établissement des Consuls ou Agents Consulaires d'un autre Etat quelconque.

Art. 4.

D'une façon générale, chacune des Hautes Parties Contractantes s'engage à accorder à l'autre, en matière d'établissement consulaire comme en tout ce qui touche à l'exercice des attributions, libertés, pouvoirs, privilèges et immunités consulaires, le traitement de la nation la plus favorisée.

Art. 5.

Les fonctionnaires et Agents consulaires nommés par chacune des Hautes Parties Contractantes seront admis par l'autre sur la présentation des commissions ou provisions qui leur auront été régulièrement délivrées. L'exéquatur nécessaire au libre exercice de leurs fonctions leur sera délivré sans retard et sans frais par l'autorité compétente.

Cet exéquatur ne pourra être refusé ou retiré par l'une des Hautes Parties Contractantes qu'en notifiant à l'autre les raisons qui motivent à ses yeux ce refus ou ce retrait.

Art. 6.

Chacune des Hautes Parties Contractantes se réserve de nommer, outre les fonctionnaires consulaires de carrière, des Agents Consulaires ou Consuls marchands, choisis parmi ses propres ressortissants, ceux de l'autre Partie ou ceux d'un Etat tiers, qui seraient établis et commerçants dans les villes, ports et localités de l'autre Partie.

Ces Agents Consulaires pourront être nommés par les Consuls de carrière, dans les limites de leur circonscription, selon les lois et coutumes et avec l'approbation de l'Etat qui les emploie. Les Agents Consulaires ainsi nommés, jouiront de tous les droits et prérogatives des Consuls de carrière, sauf les réserves mentionnées aux articles 15 et 16 ci-après.

Art. 7.

Les Consuls Généraux, Consuls, Vice-consuls et Agents Consulaires nommés par chacune des Hautes Parties Contractantes et munis de l'exéquatur de l'autre Partie se mettront aussitôt en rapport avec l'autorité supérieure du lieu de leur résidence, laquelle devra prendre immédiatement les mesures nécessaires pour qu'ils puissent s'acquitter des devoirs de leur charge et jouir des prérogatives, immunités, honneurs et privilèges qui y sont attachés.

Art. 8.

En cas de décès, d'empêchement ou d'absence des Consuls Généraux, Consuls, Vice-consuls et Agents Consulaires, les chanceliers ou les secrétaires

seront admis à gérer par intérim les postes vacants, à condition que leur caractère officiel ait été préalablement notifié au Ministère des Affaires Etrangères du Pays de leur résidence.

Ces fonctionnaires jouiront, pendant la durée de leur intérim, de tous les pouvoirs, droits, prérogatives et immunités stipulés par la présente Convention pour les titulaires des postes consulaires.

Lorsqu'un fonctionnaire consulaire viendra à décéder ou à disparaître sans laisser de remplaçant désigné, l'autorité locale procédera immédiatement à l'apposition des scellés sur les archives, en présence d'un Agent Consulaire d'une nation amie et de deux ressortissants de l'Etat auquel appartient l'Agent Consulaire. Le procès-verbal de cette opération sera dressé en double expédition et l'un des exemplaires sera transmis au Consul Général ou au fonctionnaire le plus proche. La levée des scellés aura lieu, pour la remise des archives, au nouveau fonctionnaire consulaire, de la même façon qu'avait eu lieu l'apposition.

Titre II.

Prérogatives et immunités consulaires.

Art. 9.

Les fonctionnaires et Agents Consulaires auront le droit d'arborer sur la façade de l'édifice où se trouve la chancellerie consulaire ou sur leur demeure particulière, si elle n'en est pas distincte, ou sur les embarcations où ils monteraient dans l'exercice de leurs fonctions, le pavillon et les armes de leur Etat respectif.

Ce privilège ne confère aucun droit d'asile à l'édifice consulaire, ni à la demeure particulière du Consul, ni à son embarcation.

Art. 10.

Si un Consul est appelé à figurer dans une cérémonie officielle en l'absence de tout Agent Diplomatique de sa nationalité, sur l'invitation des Autorités locales ou sur l'ordre de son Gouvernement, il aura droit à une place d'honneur distincte de celles qui seraient réservées aux fonctionnaires locaux, et sans qu'il y ait lieu à aucune considération de préséance entre lui et eux.

Art. 11.

Les chancelleries et archives consulaires sont strictement inviolables pour les Autorités locales qui ne peuvent y pénétrer.

Art. 12.

Les Consuls-marchands sont tenus d'avoir leurs papiers privés et registres de commerce entièrement distincts de la chancellerie et des archives, et dans un lieu ou pièce séparés.

Art. 13.

Les Consuls Généraux, Consuls, Vice-consuls, Agents consulaires, chanceliers et secrétaires de Consulat, ressortissants de l'Etat qui les a

nommés, sont dispensés sur le territoire de l'autre de toute charge, impôt et taxe militaire. Ils sont exempts également de toute contribution directe et perçue par rôle nominatif au profit de l'Etat ou des circonscriptions administratives.

Art. 14.

Cette exemption ne s'applique pas aux taxes perçues à la raison de la possession d'immeubles situés ou de capitaux engagés dans des entreprises industrielles ou commerciales, sur le territoire de l'Etat où les fonctionnaires sont établis.

Art. 15.

Les immunités prévues à l'article 13, deuxième période, et à l'article 14 ne s'appliquent pas aux fonctionnaires et agents consulaires exerçant un commerce, une industrie ou une profession quelconque, lesquels, ne jouissant pas des immunités, restent soumis aux taxes dues par les étrangers dans les mêmes conditions.

Art. 16.

D'une façon générale, lorsqu'une des Hautes Parties Contractantes choisira comme Consul ou Agent Consulaire un ressortissant de l'autre Partie, celui-ci ne cessera pas d'être considéré comme tel et sera par suite soumis entièrement aux lois et règlements qui régissent les nationaux dans le lieu de sa résidence, sauf les dispositions ci-après.

Art. 17.

Les Consuls Généraux, Consuls, Vice-consuls, et Agents Consulaires n'ont pas le droit à l'immunité de la jurisdiction locale. Les actes qu'ils accomplissent dans l'exercice de leurs fonctions et en leur qualité officielle ou sur l'ordre de leur gouvernement, échappent toutefois à la compétence des tribunaux locaux.

Art. 18.

Les Consuls Généraux, Consuls, Vice-consuls et Agents Consulaires ne pourront être mis en état d'arrestation et incarcérés qu'en cas de délit puni par la législation locale. S'ils sont commerçants la contrainte par corps ne pourra leur être appliquée que pour les seuls faits de commerce et non pour causes civiles.

Art. 19.

Lorsque les Autorités judiciaires devront recourir à un fonctionnaire ou agent consulaire pour recevoir une déposition, elles devront l'inviter par écrit à se présenter devant elles, et si cet agent ou fonctionnaire consulaire ne peut s'y rendre, lui demander sa déposition par écrit ou se transporter à son Consulat ou à son domicile particulier.

Art. 20.

Les fonctionnaires et agents consulaires pourrant dans les matières de leur compétence s'adresser directement aux autorités locales de leur

circonscription pour réclamer contre toute infraction aux Traités ou Conventions en vigueur entre les deux Pays et pour protéger les droits et intérêts de leurs nationaux.

S'ils n'obtenaient pas satisfaction, le Consul Général ou le fonctionnaire consulaire faisant fonctions de Consul Général pourra, à défaut de tout Agent Diplomatique de son Pays, avoir recours directement au Gouvernement de l'Etat dont il a reçu l'exéquatur.

Titre III.

Fonctions Consulaires.

Art. 21.

Les Consuls Généraux, Consuls, Vice-consuls et Agents Consulaires de chacune des Hautes Parties Contractantes procéderont librement à l'accomplissement de leurs fonctions selon les stipulations de la présente Convention.

Art. 22.

Ils auront notamment à protéger et surveiller les ressortissants de l'Etat qui les a nommés, le commerce et la navigation marchande de leurs nationaux et dresser à ces fins des actes administratifs, des actes authentiques et des actes d'état civil, selon qu'il y aura lieu.

Art. 23.

Ils auront le droit de recevoir et de convoquer à leurs Consulats ou domiciles respectifs et à bord des navires de leur nation, les capitaines de navire, marins, passagers, commerçants et en général tous les ressortissants de l'Etat qui les a nommés pour y recevoir toutes déclarations et y passer tous actes intéressant ces ressortissants: et aussi les ressortissants de l'Etat sur le territoire duquel ils exercent toutes les fois qu'il s'agira de biens situés ou d'affaires traités sur le territoire de l'Etat qui les a nommés.

Art. 24.

Feront foi devant les Tribunaux des deux Pays les expéditions des dits actes et les documents officiels émanant des Consuls respectifs, lorsqu'ils auront été dûment authentifiés, légalisés et scellés, et soumis au timbre et à l'enregistrement selon les lois du Pays où ils doivent recevoir exécution.

Il en sera de même des traductions d'actes officiels faites et certifiées par les soins du Consulat.

Art. 25.

Les Consuls Généraux, Consuls, Vice-consuls et Agents Consulaires pourront aller personnellement, ou envoyer des délégués à bord des navires de leur nation après qu'ils auront été admis en libre pratique; interroger les capitaines et l'équipage; examiner les papiers de bord; recevoir les déclarations sur leur voyage, leur destination et les incidents de la traversée;

dresser les manifestes et faciliter l'expédition de leurs navires; enfin les accompagner devant les Tribunaux et dans les bureaux de l'administration du Pays, pour leur servir d'interprêtes et d'agents dans les affaires qu'ils auront à suivre ou les demandes qu'ils auraient à former.

Il est convenu que les fonctionnaires de l'ordre judiciaire et les Officiers et Agents de la douane ne pourront, en aucun cas opérer ni visites, ni recherches à bord des navires sans être accompagnés par le Consul ou Vice-consul de la nation à laquelle ces navires appartiennent. Ils devront également prévenir, en temps opportun, lesdits Agents Consulaires pour qu'ils assistent aux déclarations que les capitaines et les équipages auront à faire devant les Tribunaux et dans les administrations locales, afin d'éviter ainsi toute erreur ou fausse interprétation qui pourrait nuire à l'exacte administration de la justice.

La citation qui sera adressée à cet effet aux Consuls et Viceconsuls indiquera une heure précise, et si les Consuls et Viceconsuls négligeaient de s'y rendre en personnne ou de s'y faire représenter par un délégué, il sera procédé en leur absence.

Art. 26.

Les Consuls sont chargés du maintien de l'ordre à bord des navires de commerce de leur nation, ainsi que de la résolution des différends qui pourraient s'élever soit en mer, soit dans les ports entre les Officiers du bord et les hommes de l'équipage, notamment en matière de salaires.

Ils peuvent à cette fin se transporter à bord de ces navires et les Autorités du port où ils se trouvent devront, le cas échéant, leur prêter assistance ou main forte pour leur faciliter sur ce point l'accomplissement de leurs fonctions.

Art. 27.

Les Consuls pourront en particulier réclamer l'aide des Autorités locales pour l'arrestation ou l'incarceration d'individus inscrits ou non sur les rôles de l'équipage lorsqu'ils le jugeront nécessaires.

Art. 28.

Les Autorités locales ne pourront intervenir directement qu'au cas où il se produirait des événements susceptibles de troubler l'ordre public, ou lorsqu'un de leurs ressortissants se trouverait mêlé à l'affaire. Elles devront alors requérir l'assistance du consul et agir en sa présence, à moins qu'il ne s'y refuse.

Art. 29.

Les fonctionnaires et Agents Consulaires pourront faire arrêter les officiers, matelots et individus faisant partie de l'équipage des navires de commerce de leur nation, lorsque ces personnes auront déserté lesdits navires, et les réintégrer à bord ou les faire transporter dans leur Pays. Dans ce but, ils s'adresseront par écrit aux autorités locales et devront justifier par des documents officiels, et notamment par la production des rôles de l'équipage ou des registres de bord, que les personnes réclamées faisaient partie de l'équipage.

Art. 30.

La remise des déserteurs ne pourra être refusée que s'il est prouvé qu'ils étaient, au moment de leur inscription dans les rôles, les ressortissants du Pays auquel l'extradition est demandée.

Art. 31.

Les Autorités locales, après avoir prêté leur concours à l'arrestation des déserteurs, devront retenir ces derniers dans les prisons locales. Le Consulat remboursera les frais. Si le Consul n'a pas trouvé l'occasion de les réintégrer ou de les faire rapatrier dans les trois mois, les Autorités locales seront libres de les relaxer et ils ne pourront être à nouveau inquiétés par elles pour le même fait.

Art. 32.

Au cas où le déserteur se serait rendu coupable d'un fait délictueux sur le territoire de l'Etat où il se trouve, sa remise au Consul pourra être retardée jusqu'à ce que les Tribunaux locaux aient statué et que leur sentence ait reçu plein et entière exécution.

Art. 33.

Toutes les fois qu'il n'y aura pas de stipulations contraires entre les armateurs, chargeurs et assureurs, les avaries que les navires des deux Pays auront souffertes en mer soit qu'ils entrent dans les ports respectifs volontairement ou par relâche forcée, seront réglées par les Consuls Généraux, Consuls, Vice-consuls ou Agents Consulaires de leur nation, à moins que des sujets du Pays dans lequel résideront lesdits Agents, ou ceux d'une tierce Puissance, ne soient intéressés dans ces avaries; dans ce cas, et à défaut de compromis amiable entre toutes les Parties intéressés, elles devraient être réglées par l'Autorité locale.

Art. 34.

Lorsqu'un navire appartenant au Gouvernement ou à des sujets de l'une des Hautes Parties Contractantes fera naufrage ou échouera sur le littoral de l'autre, les Autorités locales devront porter le fait à la connaissance du Consul Général, Consul, Vice-consul ou Agent Consulaire de la circonscription, et, à son défaut, à celle du Consul Général, Consul, Vice-consul ou Agent Consulaire le plus voisin du lieu de l'accident.

Toutes les opérations relatives au sauvetage des navires italiens qui naufrageraient ou échoueraient dans les eaux territoriales de la Bulgarie, seront dirigées par les Consuls Généraux, Consuls, Vice-consuls ou Agents Consulaires d'Italie; réciproquement toutes les opérations relatives au sauvetage des navires bulgares qui naufrageraient ou échoueraient dans les eaux territoriales de l'Italie, seront dirigées par les Consuls Généraux, Consuls, Vice-consuls ou Agents Consulaires de Bulgarie.

L'intervention des Autorités locales n'aura lieu dans les deux Pays que pour assister les Agents Consulaires, maintenir l'ordre, garantir les

intérêts des sauveteurs étrangers à l'équipage, et assurer l'exécution des dispositions à observer pour l'entrée et la sortie des marchandises sauvées.

En l'absence et jusqu'à l'arrivée des Consuls Généraux, Consuls Vice-consuls ou Agents Consulaires ou de la personne qu'ils délégueront à cet effet, les Autorités locales devront prendre toutes les mesures nécessaires pour la protection des individus et la conservation des objets qui auront été sauvés du naufrage.

L'intervention des Autorités locales, dans ces différents cas, ne donnera lieu à la perception de frais d'aucune espèce, hors ceux que nécessiteront les opérations de sauvetage et la conservation des objets sauvés, ainsi que ceux auxquels seraient soumis, en pareil cas, les navires nationaux.

En cas de doute sur la nationalité des navires naufragés, les dispositions mentionnées dans le présent article seront de la compétence exclusive de l'Autorité locale.

Les Hautes Parties Contractantes conviennent en outre que les marchandises et effets sauvés ne seront sujets au payement d'aucun droit de douane, à moins qu'on ne les destine à la consommation intérieure.

Art. 35.

En cas de décès d'un sujet de l'une des Parties Contractantes sur le territoire de l'autre, les Autorités locales devront en donner avis immédiatement au Consul Général, Consul, Vice-consul ou Agent Consulaire dans la circonscription duquel le décès aura eu lieu. Ceux-ci, de leur côté, devront donner le même avis aux Autorités locales, lorsqu'ils en seront informés les premiers.

Quand un Bulgare en Italie ou un Italien en Bulgarie, sera mort sans avoir fait de testament ni nommé d'exécuter testamentaire, ou si les héritiers, soit légitimes, soit désignés par le testament, ou bien quelqu'un entre eux, étaient mineurs incapables ou absents, ou si les exécuteurs testamentaires nommés ne se trouvaient pas dans le lieu où s'ouvrira la succession, les Consuls Généraux, Consuls, Vice-consuls et Agents Consulaires de la nation du défunt auront le droit de procéder successivement aux opérations suivantes:

1. Apposer les scellés, soit d'office, soit à la demande des parties intéressées, sur tous les effets meubles et papiers du défunt, en prévenant de cette opération l'Autorité locale compétente, qui pourra y assister et apposer également ses scellés. Ces scellés, non plus que ceux de l'Agent Consulaire, ne devront pas être levés sans que l'Autorité locale assiste à cette opération. Toutefois, si après un avertissement adressé par le Consul ou Vice-consul à l'autorité locale, pour l'inviter à assister à la levée des doubles scellés celle-ci ne s'était pas présentée dans un délai de 48 heures, à compter de la réception de l'avis, cet Agent pourra procéder seul à ladite opération.

2. Former l'inventaire de tous les biens et effets du défunt, en présence de l'Autorité locale, si, par suite de la notification susindiquée elle avait cru devoir assister à cet acte. L'Autorité locale apposera sa signature

sur les procès-verbaux dressés en sa présence, sans que, pour son intervention d'office dans ses actes, elle puisse exiger des droits d'aucune espèce.

3. Ordonner la vente aux enchères publiques de tous les effets mobiliers de la succession qui pourraient se détériorer et de ceux d'une conservation difficile, comme aussi des récoltes et effets, pour la vente desquels il se présentera des circonstances favorables.

4. Déposer en lieu sûr les effets et valeurs inventoriés, conserver le montant des créances que l'on réalisera, ainsi qui le produit des rentes que l'on percevra, dans la maison consulaire, ou les confier à quelque commerçant présentant toutes garanties. Ces depôts devront avoir lieu dans l'un ou l'autre cas, d'accord avec l'Autorité locale qui aura assisté aux opérations antérieures, si par suite de la convention mentionnée au paragraphe suivant, des sujets du Pays ou d'une Puissance tierce se présentaient comme intéressés dans la succession ab intestat ou testamentaire.

5. Annoncer le décès et convoquer, au moyen des journaux de la localité et de ceux du pays du défunt, si cela était nécessaire, les créanciers qui pourraient exister contre la succession ab intestat ou testamentaire, afin qu'ils puissent présenter leurs titres respectifs de créance, dûment justifiés, dans le délai fixé par les lois de chacun des deux Pays.

S'il se présentait des créanciers contre la succession testamentaire ou ab intestat, le payement de leurs créances devrait s'effectuer dans le délai de 15 jours après la clôture de l'inventaire, s'il existait des ressources qui puissent être affectées à cet emploi, et dans le cas contraire, aussitôt que les fonds nécessaires auraient pu être réalisés par les moyens les plus convenables; ou, enfin dans le délai consenti, d'un commun accord, entre les Consuls et la majorité des intéressés.

Si les Consuls respectifs se refusaient au payement de tout ou partie des créances, en alléguant l'insuffisance des valeurs de la succession pour les satisfaire, les créanciers auront le droit de demander à l'Autorité compétente, s'ils le jugeaient utile à leurs intérêts, la faculté de se constituer en état d'union. Cette déclaration obtenue par les voies légales établies dans chacun des deux Pays, les Consuls ou Vice-consuls devront faire immédiatement la remise à l'Autorité judiciaire ou au Syndic de la faillite, selon qu'il appartiendra, de tous les documents, effets ou valeurs appartenant à la succession testamentaire ou ab intestat, lesdits Agents demeurant chargés de représenter les héritiers absents, les mineurs et les incapables. En tout cas, les Consuls Généraux, Consuls et Vice-consuls ne pourront faire la délivrance de la succession ou de son produit aux héritiers légitimes ou à leurs mandataires qu'après l'expiration d'un délai de six mois à partir du jour où l'avis du décès aura été publié dans les journaux.

6. Administrer et liquider eux-mêmes, ou par une personne qu'ils nommeront, sous leur responsabilité, la succession testamentaire ou ab intestat, sans que l'Autorité locale ait à intervenir dans lesdites opérations, à moins que des sujets du Pays ou d'une tierce Puissance n'aient à faire valoir les droits dans la succession car, en ce cas, s'il survenait des difficultés provenant notamment de quelques réclamations donnant lieu à con-

testation, les Consuls Généraux, Consuls, Vice-consuls et Agents Consulaires, n'ayant aucun droit pour terminer ou résoudre ces difficultés, les Tribunaux du Pays devront en connaître selon qu'il leur appartient d'y pourvoir ou de les juger. Lesdits Agents Consulaires agiront alors comme représentants de la succession testamentaire ou ab intestat, c'est-à-dire que, conservant l'administration et le droit de liquider définitivement ladite succession comme aussi celui d'effectuer les ventes d'effets dans les formes précé demment annoncées, ils veilleront aux intérêts des héritiers et auront la faculté de désigner des avocats chargés de soutenir leurs droits devant les Tribunaux. Il est bien entendu qu'ils remettront à ces Tribunaux tous les papiers et documents propres à éclairer la question soumise à leur jugement. Le jugement prononcé, les Consuls Généraux, Consuls, Vice-consuls ou Agents Consulaires devront l'exécuter s'ils ne forment pas appel, et ils continueront alors de plein droit la liquidation qui aurait été suspendue jusqu'à la conclusion du litige.

7. Organiser, s'il y a lieu, la tutelle ou curatelle, conformément aux lois des Pays respectifs.

Art. 36.

Lorsqu'un Bulgare en Italie, ou un Italien en Bulgarie sera décédé sur un point où il ne se trouverait pas d'Agent Consulaire de sa nation, l'Autorité territoriale compétente procédera, conformément à la législation du Pays, à l'inventaire des effets et à la liquidation des biens qu'il aura laissés et sera tenue de rendre compte, dans le plus bref délai possible, du résultat de ces opérations à la Légation qui doit en connaître, ou au Consulat ou Viceconsulat le plus voisin du lieu où se sera ouverte la succession ab intestat ou testamentaire. Mais, dès l'instant que l'Agent Consulaire le plus rapproché du point où se serait ouverte ladite succession ab intestat ou testamentaire, se présenterait personnellement ou enverrait un délégué sur le lieu, l'Autorité locale qui sera intervenue devra se conformer à ce que prescrit l'article précédent.

Titre IV.

Dispositions finales.

Art. 37.

La présente Convention sera ratifiée de part et d'autre conformément aux constitutions respectives des deux Etats. Les ratifications seront échangées à Sophia dans le plus bref délai possible.

Art. 38.

La présente Convention restera en vigueur pendant 5 ans à partir de l'échange des ratifications. Elle demeurera en vigueur au-delà de cette date, par tacite reconduction, tant qui ni l'une ni l'autre des Hautes Parties Contractantes ne l'aura dénoncée, et douze mois encore après le moment où cette dénonciation aura été notifiée à l'autre par l'une des Hautes Parties Contractantes.

Art. 39.

Au cas où un différend s'éléverait entre les Hautes Parties Contractantes touchant l'interprétation ou l'exécution de la présente Convention, les Hautes Parties Contractantes conviennent de s'en remettre pour la solution de ce différend, au cas où les négociations diplomatiques directement poursuivies entre Elles n'auraient pas abouti, à la Cour permanente d'arbitrage de La Haye, conformément aux dispositions de la Convention Internationale du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.*)

En foi de quoi, les plénipotentiaires respectifs ont apposé leurs signatures et l'empreinte de leurs sceaux.

Fait en double original à Sophia, le 25 février/10 mars 1910.

Cucchi Boasso.
S. Paprikoff.

184.

SUÈDE, ROUMANIE.

Convention de commerce et de navigation; signée à Berlin, le 3 mars/18 février 1910.**)

Svensk Författnings-Samling 1910. No. 38.

Sa Majesté le Roi de Suède et Sa Majesté le Roi de Roumanie, également animés du désir de resserrer les liens d'amitié qui unissent les deux pays et de développer les relations de commerce et de navigation qui existent entre la Suède et la Roumanie, ont décidé de conclure une Convention à cet effet et ont nommé pour Leurs plénipotentiaires respectifs, savoir:

Sa Majesté le Roi de Suède:

Monsieur Eric de Trolle, Son Envoyé extraordinaire et Ministre plénipotentiaire près Sa Majesté l'Empereur d'Allemagne, Roi de Prusse etc.,

Sa Majesté le Roi de Roumanie:

Monsieur le Docteur en droit Alexandre Beldiman, Son Envoyé extraordinaire et Ministre plénipotentiaire près Sa Majesté l'Empereur d'Allemagne, Roi de Prusse etc.,

lesquels, après s'être réciproquement communiqué leurs pleins pouvoirs, trouvés en bonnes et dues formes, sont convenus des articles suivants:

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*) V. N. R. G. 3. s. III, p. 360.
**) Les ratifications ont été échangées à Berlin, le 22 avril 1910.

Article 1.

Il y aura pleine et entière liberté de commerce et de navigation entre les deux Etats contractants.

Les ressortissants de l'un des deux Etats contractants, établis dans l'autre ou y résidant temporairement, y jouiront, relativement à l'exercice du commerce et de l'industrie, des mêmes droits et n'y seront soumis à aucune imposition plus élevée ou autre que les nationaux. Ils bénéficieront, sous tous ces rapports, dans le territoire de l'autre Etat des mêmes droits, avantages, immunités et exemptions que les ressortissants du pays le plus favorisé.

Il est entendu, toutefois, que les stipulations qui précèdent ne dérogent en rien aux lois, ordonnances et règlements spéciaux en matière d'établissement, de commerce, d'industrie et de police qui sont ou seront en vigueur dans chacun des deux Etats et applicables à tous les étrangers.

Article 2.

Tous les objets, produits du sol ou de l'industrie de la Suède, qui seront importés en Roumanie, et tous les objets, produits du sol ou de l'industrie de Roumanie qui seront importés en Suède, destinés soit à la consommation, soit à la mise en entrepôt, soit à la réexportation, soit au transit, seront soumis, pendant la durée de la présente Convention, au traitement accordé à la nation la plus favorisée et, en particulier, ne seront passibles de droits ni plus élevés, ni autres que ceux qui frappent les produits ou les marchandises de la nation la plus favorisée.

A l'exportation pour la Suède il ne sera pas perçu en Roumanie, et à l'exportation pour la Roumanie il ne sera pas perçu en Suède, de droits de sortie autres, ni plus élevés qu'à l'exportation des mêmes objets pour le pays le plus favorisé à cet égard.

Chacune des Parties contractantes s'engage donc à faire profiter l'autre immédiatement, de tous avantages ou abaissements de droits qu'elle a déjà accordés ou pourrait accorder par la suite, sous les rapports mentionnés, à un autre Etat.

Article 3.

Des certificats d'origine pourront être exigés par chacune des Parties contractantes pour le cas où elle aurait établi des droits différentiels d'après l'origine des marchandises, ou pour des raisons concernant la statistique commerciale.

Article 4.

Les Parties contractantes s'engagent à n'entraver nullement le commerce réciproque des deux pays par des prohibitions à l'importation, à l'exportation ou au transit.

Des exceptions à cette règle, en tant qu'elles seront applicables à tous les pays ou aux pays se trouvant dans des conditions identiques, ne pourront avoir lieu que dans les cas suivants:

1) dans des circonstances exceptionnelles, en ce qui touche les provisions de guerre;

2) pour des raisons de sûreté intérieure de l'Etat;

3) pour des motifs de police sanitaire ou pour empêcher soit la propagation des épizooties, soit la destruction des plantes notamment par les insectes ou parasites nuisibles;

4) en vue d'étendre aussi aux marchandises étrangères similaires les prohibitions ou restrictions arrêtées par des lois intérieures à l'égard de la production, de la vente ou du transport des marchandises indigènes;

5) pour les marchandises qui sont ou seront l'objet d'un monopole d'Etat.

Article 5.

Les navires suédois et leurs cargaisons seront traités en Roumanie et les navires roumains et leurs cargaisons seront traités en Suède absolument sur le même pied que les navires de la nation la plus favorisée.

La nationalité des bâtiments sera reconnue de part et d'autre d'après les lois et règlements particuliers à chacun des Etats contractants au moyen des titres et patentes délivrés aux capitaines, patrons ou bâteliers par les autorités compétentes.

Article 6.

Les stipulations de la présente Convention ne s'appliquent pas aux avantages qui sont ou qui pourraient être accordés par l'une des Hautes Parties contractantes à des Etats limitrophes pour faciliter le trafic de frontière, autant que ces mêmes avantages ne seront pas étendus à d'autres Etats.

Article 7.

La présente Convention sera ratifiée et les ratifications en seront échangées à Berlin aussitôt que faire se pourra.

Elle entrera en vigueur quinze jours après l'échange des ratifications.

Les Parties contractantes se réservent respectivement la faculté de dénoncer à toute époque la présente Convention moyennant un avertissement de douze mois à l'avance.

En foi de quoi, les plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait, en double expédition originale, à Berlin le 3 mars/18 février mil-neuf-cent-dix.

(L. S.) (signé) *Eric Trolle.*

(L. S.) (signé) *Alexandre Beldiman.*

Protocole Final.

Au moment de procéder à la signature de la Convention de commerce, conclue à la date de ce jour, entre la Suède et la Roumanie, les Plénipotentiaires soussignés ont déclaré d'un commun accord que les stipulations de la présente convention ne s'appliquent pas aux concessions spéciales accordées

ou qui seront accordées par la Suède aux ressortissants norvégiens, aux sociétés commerciales, industrielles et financières, ainsi qu'aux marchandises norvégiennes, autant que ces mêmes concessions ne seront pas accordées aux ressortissants, aux sociétés ou aux marchandises d'un autre Etat.

Cette déclaration formera partie intégrante de la Convention même.

En foi de quoi les Plénipotentiaires respectifs ont signé le présent protocole final et y ont apposé leurs cachets.

Fait, en double expédition originale, à Berlin le 3 mars/18 février mil-neuf-cent-dix.

(L. S.) (signé) *Eric Trolle.*
(L. S.) (signé) *Alexandre Beldiman.*

185.

ITALIE, BULGARIE.

Echange de notes diplomatiques en vue d'accorder l'entrée en franchise de droits aux objets d'usage domestique; du 10 mars et du 21 juillet 1910.

Gazzetta ufficiale 1910. No. 205.

Il Ministero degli affari esteri del Regno d'Italia alla Legazione di Bulgaria in Roma.

Rome, 10 mars 1910.

Monsieur le ministre,

Par votre note du 7 octobre dernier, n. 404, en communiquant à ce département que la loi bulgare des douanes exonères des droits d'entrée le mobilier strictement nécessaire aux sujets étrangers allant se fixer en Bulgarie, Vous avez bien voulu demander, au nom du Gouvernement de Bulgarie, si le Gouvernement royal serait disposé à accorder les mêmes facilités aux sujets bulgares s'établissant en Italie.

En réponse j'ai l'honneur de porter à votre connaissance que le paragraphe 6 de l'art. 9 des dispositions préliminaires du tarif douanier italien détermine ce qui suit:

„Exemption totale des droits d'entrée est accordée par la douane aux effets suivants, aux conditions ci-dessous spécifiées: effets, meubles, livres. voitures, ustensiles nécessaires à l'exercice d'une profession, et autres objets d'usage domestique appartenant aux personnes qui transfèrent leur résidence

dans le royaume, pourvu que le tout soit usé et en rapport à la condition des propriétaires et que l'introduction en soit effectuée dans un délai qui ne doit pas dépasser les six mois à partir du jour de la déclaration de transfert de résidence.

„Ladite exemption est accordée par la douane sur l'exhibition d'un certificat délivré par la municipalité du lieu où la nouvelle résidence a été établie, constatant la situation de famille, la résidence précédente, ainsi que la date de la déclaration de transfert".

Or, rien ne s'oppose de la part du Gouvernement royal à ce que les faveurs des dites dispositions soient assurées aux sujets bulgares, sous la condition de la réciprocité à l'égard des sujets italiens qui entreront et tiendront leur résidence en Bulgarie.

Il demeurera, par conséquent, entendu que la Bulgarie admettra en franchise pour ce qui concerne les sujets italiens, tous les objets de ménage ayant déjà servi, ainsi que les meubles, vêtements, ustensiles de cuisine, voitures, instruments et machines employées par les agriculteurs et en général tous les objets d'usage prévus ou sousentendus à l'art. 7 de la loi princière des douanes.

Je Vous prie de bien vouloir me donner acte de ce qui précède, en me faisant savoir, en même temps, quelles seront les pièces que les sujets italiens s'établissant en Bulgarie devront exhiber pour obtenir la franchise douanière, qui forme l'objet de cette communication.

Veuillez agréer, monsieur le ministre, etc.

P. di Scalea.

La Delegazione di Bulgaria in Roma al Ministero degli affari esteri del Regno d'Italia.

Rome, 21 juillet 1910.

Monsieur le ministre,

Me référant à la note de Votre Excellence du 10 mars, a. c., j'ai l'honneur de porter à votre connaissance que mon Gouvernement concède, à titre de réciprocité, aux sujets italiens l'exonération des droits de douane octroyée par l'art. 7, § *a*, de la loi des douanes bulgare, pour le mobilier des ressortissants étrangers allant se fixer en Bulgarie, à savoir:

„Est exonéré des droits de douane, mais soumis à la visite douanière de rigueur, le mobilier strictement nécessaire, et ayant déjà servi, des sujets étrangers venant se fixer en Bulgarie pour une période d'au moins douze mois, si les mêmes facilités sont concédés par les Etats respectifs aux sujets bulgares".

Pour obtenir la franchise de douane en question, les sujets italiens auront à exhiber devant les autorités douanières bulgares:

1. Un inventaire détaillé du mobilier, dûment légalisé par les autorités italiennes du lieu de l'émigration, et

2. Un certificat de la municipalité de la nouvelle résidence, constatant le métier que l'immigrant exercera.

En Vous faisant cette communication, j'ai l'honneur de constater que la réciprocité, relative à l'exemption des droits d'entrée octroyée par les lois italienne et bulgare aux sujets étrangers allant se fixer dans les pays respectifs, se trouve établie entre l'Italie et la Bulgarie.

Veuillez agréer, monsieur le ministre, etc.

D. Rizoff.

186.

FRANCE, BELGIQUE.

Note faisant suite à la Convention concernant la réparation des dommages résultant des accidents du travail signée le 21 février 1906;*) du 12 mars 1910.

Journal officiel 1910. No. 100.

Par application de l'article 4 de ladite convention, il est convenu entre les deux Etats signataires qu'en cas d'accident donnant lieu à enquête, avis de la clôture de ladite enquête doit être immédiatement donné à l'autorité consulaire dans le ressort de laquelle se trouvait la résidence de la victime au moment de l'accident, afin que cette autorité puisse prendre connaissance de ladite enquête dans l'intérêt des ayants droit.

Le présent accord n'aura effet que trois mois après sa signature.

Paris, le 12 mars 1910.

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*) V. N. R. G. 2. s. XXXV, p. 148.

187.

FRANCE, TUNISIE.

Convention pour fixer la répartition des charges de la garantie d'intérêt du réseau tunisien des chemins de fer; signée à Paris, le 15 mars 1910.

Journal officiel 1910. No. 103.

Convention

Entre MM. Cochery, ministre des finances, et Millerand, ministre des travaux publics, agissant au nom du Gouvernement français,

D'une part;

Et M. Pichon, ministre des affaires étrangères, agissant au nom du gouvernement tunisien,

D'autre part,

Il a été convenu ce qui suit:

Art. 1er. La participation du Gouvernement français à la garantie d'intérêt du réseau tunisien des chemins de fer de la compagnie Bône-Guelma, qui a fait l'objet de la convention du 17 mars 1902,*) approuvée par la loi du 6 avril 1902, est ramenée à 1,430,000 fr. pour l'année d'exploitation 1910.

Cette participation décroîtra ensuite régulièrement de 31,000 fr. par an pour prendre fin en 1957.

A dater du 1er janvier 1957, le gouvernement tunisien assumera la charge totale de la garantie d'intérêt et de l'annuité de rachat.

Art. 2. La participation du Gouvernement français aura le caractère d'une subvention forfaitaire et sera versée au gouvernement tunisien, quels que soient les résultats de l'exploitation, dans les quatre premiers mois de l'année pour l'année précédente, de telle façon que le premier versement, applicable à l'exploitation de 1910, sera effectué en 1911 avant le 30 avril.

Art. 3. Le fonds de garantie institué par l'article 3 de la convention du 17 mars 1902 est réduit à la somme de 750,000 fr.

La Tunisie reversera à la métropole les sommes qu'elle a touchées en excédent pour la constitution de ce fonds.

Art. 4. En cas d'insuffisance du versement forfaitaire de l'Etat français pour une année déterminée, le déficit sera couvert au moyen d'un prélèvement sur le fonds de garantie que la Tunisie sera tenue de reconstituer sur les premiers excédents.

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*) V. Recueil international des Traités du XXe siècle 1902, p. 326.

Art. 5. Les soldes afférents aux exercices antérieurs à l'année d'exploitation 1910 resteront à la charge de l'Etat français dans la limite du maximum fixé pour chaque exercice par la convention de 1902.

Art. 6. Sont abrogées, à dater du 1[er] janvier 1910, les dispositions contraires de la convention du 17 mars 1902.

Fait à Paris, le 15 mars 1910.

Pour le Gouvernement français:

Le ministre des travaux publics,
A. Millerand.

Le ministre des finances,
Georges Cochery.

Pour le gouvernement tunisien:

Le ministre des affaires étrangères,
S. Pichon.

188.

PRUSSE, SAXE-MEININGEN, SCHWARZBOURG-RUDOLSTADT.

Traité concernant le raccordement des chemins de fer de Bock-Wallendorf à Neuhaus; signé à Berlin, le 7 avril 1910.*)

Preussische Gesetzsammlung 1911. No. 3.

Staatsvertrag zwischen Preussen, Sachsen-Meiningen und Schwarzburg-Rudolstadt wegen Herstellung einer Eisenbahn von Bock-Wallendorf nach Neuhaus a. Rennweg-Igelshieb mit Abzweigung von Ernstthal nach Lauscha. Vom 7. April 1910.

Seine Majestät der König von Preussen, Seine Hoheit der Herzog von Sachsen-Meiningen und Seine Durchlaucht der Fürst zu Schwarzburg-Rudolstadt haben zum Zwecke einer Vereinbarung über die Herstellung einer Eisenbahn von Bock-Wallendorf nach Neuhaus a. Rennweg-Igelshieb mit Abzweigung von Ernstthal nach Lauscha zu Bevollmächtigten ernannt:

Seine Majestät der König von Preussen:
Allerhöchstihren Geheimen Oberfinanzrat Max Vieregge,
Allerhöchstihren Geheimen Oberbaurat Wilhelm Sprengell,
Allerhöchstihren Legationsrat Hermann Freiherrn von Stengel;

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*) L'échange des ratifications a eu lieu.

Seine Hoheit der Herzog von Sachsen-Meiningen:
Höchstihren Geheimen Staatsrat, Wirklichen Geheimen Rat Karl Schaller;

Seine Durchlaucht der Fürst zu Schwarzburg-Rudolstadt:
Höchstihren Staatsminister, Wirklichen Geheimen Rat Franz Freiherrn von der Recke,
Höchstihren Regierungsrat Albert Bock,

welche unter dem Vorbehalte der landesherrlichen Ratifikation nachstehenden Staatsvertrag abgeschlossen haben:

Artikel I.

Die Königlich Preussische Regierung erklärt sich bereit, eine Eisenbahn von Bock-Wallendorf nach Neuhaus a. Rennweg-Igelshieb mit Abzweigung von Ernstthal nach Lauscha für eigene Rechnung auszuführen, sobald sie die gesetzliche Ermächtigung hierzu erhalten haben wird.

Die Herzoglich Sächsische und die Fürstlich Schwarzburg-Rudolstädtische Regierung gestatten der Königlich Preussischen Regierung den Bau und Betrieb dieser Bahn innerhalb ihrer Staatsgebiete.

Artikel II.

Die Feststellung der gesamten Bauentwürfe für die den Gegenstand dieses Vertrags bildende Eisenbahn soll ebenso wie die Prüfung der anzuwendenden Fahrzeuge, einschliesslich der Dampfwagen, lediglich der Königlich Preussischen Regierung zustehen, die indes bezüglich der Führung der Bahn und der Anlegung von Stationen etwaige besondere Wünsche der Landesregierungen tunlichst berücksichtigen will. Jedoch bleibt die landespolizeiliche Prüfung und Genehmigung der Bauentwürfe, soweit diese die Herstellung von Wegübergängen, Brücken, Durchlässen, Flussregelungen, Vorflutanlagen und Seitenwegen betreffen, nebst der baupolizeilichen Prüfung der Stationsanlagen jeder Regierung innerhalb ihres Gebiets vorbehalten.

Sollte nach Fertigstellung der Bahn infolge eintretenden Bedürfnisses die Anlage von neuen Wasserdurchlässen oder öffentlichen Wegen, welche die geplante Eisenbahn kreuzen, von den Landesregierungen angeordnet oder genehmigt werden, so wird zwar preussischerseits gegen die Ausführung derartiger Anlagen keine Einsprache erhoben werden, die Landesregierungen verpflichten sich aber, dafür einzutreten, dass durch die neue Anlage weder der Betrieb der Eisenbahn gestört wird, noch auch daraus der Eisenbahnverwaltung ein anderer Kostenaufwand erwächst, als der für die etwa von der Eisenbahnverwaltung für notwendig erachtete oder nach Artikel III zu bewirkende Bewachung der neuen Übergänge.

Artikel III.

Die Spurweite der Gleise soll 1,435 Meter zwischen den Schienen betragen. Die Bahn wird vorläufig nur eingleisig ausgeführt werden. Die Königlich Preussische Regierung ist berechtigt, die Bahn nach den Be-

stimmungen der Eisenbahn-Bau- und Betriebsordnung vom 4. November 1904, gültig vom 1. Mai 1905 ab, und den dazu etwa künftig ergehenden ergänzenden oder abändernden Bestimmungen als Nebenbahn herzustellen und zu betreiben.

Artikel IV.

In Anerkennung der für ihre Staatsgebiete erwachsenden Vorteile verpflichten sich für den Fall der Ausführung der Bahn:

A. die Herzoglich Sächsische und die Fürstlich Schwarzburg-Rudolstädtische Regierung und zwar jede für ihr Staatsgebiet:
 1. den zum Baue der Bahnanlagen erforderlichen Grund und Boden der Königlich Preussischen Regierung unentgeltlich zur Verfügung zu stellen;
 2. die Mitbenutzung der Chausseen und sonstigen öffentlichen Wege unentgeltlich und ohne besondere Entschädigung für die Dauer des Bestehens und Betriebs der Bahn zu gestatten;

B. die Herzoglich Sächsische Regierung zu den Baukosten der Linie Ernstthal-Lauscha einen unverzinslichen, nicht rückzahlbaren Zuschuss von 500000 Mark, in Worten: „Fünfhunderttausend Mark", zu gewähren.

Artikel V.

Die im Artikel IV unter Nr. A 1 übernommene Verpflichtung erstreckt sich auf das gesamte zur Herstellung der Bahn, einschliesslich der Stationen und aller sonstigen Anlagen, sowie auf das für Seitenentnahmen, Seitenwege, Sicherheitsstreifen, Gewinnung von Baumaterialien, Lagerplätze, Änderungen von Wegen oder Wasserläufen usw. nach den genehmigten Bauplänen oder nach den Bestimmungen der Landespolizeibehörden erforderliche oder zum Schutze der benachbarten Grundstücke, zur Verhütung von Feuersgefahr usw. für notwendig erachtete, der Enteignung unterworfene Grundeigentum mit Einschluss von Rechten und Gerechtigkeiten. Die Überweisung des Grundeigentums nebst Rechten und Gerechtigkeiten soll dergestalt unentgeltlich erfolgen, dass von der bauenden Eisenbahnverwaltung auch Kulturentschädigungen sowie Ersatzleistungen für Wirtschaftserschwernisse nicht zu tragen sind und die für den Bau der Bahn erforderlichen Grundstücke frei von Pfandrechten, anderen dinglichen Lasten, Abgaben und Gebühren, die dauernd erforderlichen in das Eigentum, die vorübergehend erforderlichen für die Dauer des Bedürfnisses in die Benutzung des Preussischen Staates übergehen. Letzterem fallen nur die Kosten der Vermessung und Versteinung des überwiesenen Geländes zur Last.

Die bauleitende Eisenbahnverwaltung wird nach Genehmigung des Bauplans und der bei der Bauausführung etwa erforderlich werdenden Ergänzungen für jede Feldmark einen Planauszug vorlegen, welcher die zu überweisenden Grundstücke nach ihrer katastermässigen oder sonst üblichen Bezeichnung und Grösse, deren Eigentümer nach Namen und Wohnort, ferner die landespolizeilich angeordneten Anlagen sowie, wo nur eine

Belastung von Grundeigentum in Frage steht, die Art und den Umfang dieser Belastung zu enthalten hat. Binnen drei Monaten nach Vorlage dieses Auszugs ist die Eisenbahnverwaltung in den Besitz der erforderlichen Grundstücke zu setzen. Ist innerhalb dieser Frist die Überweisung nicht erfolgt, so steht der Eisenbahnverwaltung die Befugnis zu, ohne weiteres die gesetzliche Enteignung zu beantragen, zu welchem Zwecke die Herzoglich Sächsische und die Fürstlich Schwarzburg-Rudolstädtische Regierung der Königlich Preussischen Regierung das Enteignungsrecht rechtzeitig erteilen werden. Die Preussische Regierung wird dabei die Interessen der beteiligten Landesregierungen tunlichst wahrnehmen, insbesondere Vergleiche nicht ohne deren Zustimmung abschliessen. Der im Enteignungswege für den Grunderwerb usw. erwachsende Aufwand, einschliesslich der Kosten des Verfahrens, ist der Eisenbahnverwaltung alsdann zu ersetzen.

Den genannten Regierungen bleibt es freigestellt, wegen der Übertragung dieser sowie der im Artikel IV unter A 2 und B übernommenen Verpflichtungen auf die von der Bahnlinie berührten Gemeinden usw. mit letzteren sich zu verständigen; sie bleiben indes auch bei einer derartigen Übertragung für die Erfüllung der Verpflichtungen ihrerseits der Königlich Preussischen Regierung verhaftet.

Die vertragschliessenden Regierungen sind darin einig, dass die Herstellung, Unterhaltung und Beleuchtung der Zufuhrwege zu den Stationen, soweit diese Wege ausserhalb der Stationen liegen, nicht Sache der Eisenbahnverwaltung ist.

Von dem nach Artikel IV B zu leistenden Barzuschuss ist seitens der Herzoglich Sächsischen Regierung die eine Hälfte vier Wochen nach Beginn der Bauarbeiten innerhalb ihres Landesgebiets, die andere Hälfte vier Wochen nach der Betriebseröffnung an die Königlich Preussische Regierung zu zahlen.

Sollte die Königlich Preussische Regierung sich demnächst zu einer Erweiterung der ursprünglichen Bahnanlagen durch Herstellung von Anschlussgleisen, Stationen oder zu ähnlichen Einrichtungen entschliessen und insbesondere auch zur Anlage des zweiten Gleises schreiten, so werden die Landesregierungen zwecks Erwerbung des zur Ausführung dieser Anlagen erforderlichen Grund und Bodens, auf die sich die Verpflichtung im Artikel IV unter A 1 des Vertrags nicht bezieht, für ihr Gebiet das Enteignungsrecht erteilen, insoweit es nicht bereits nach den gesetzlichen Bestimmungen von selbst Anwendung findet, und für die Ermittelung und Feststellung der Entschädigungen keine ungünstigeren Bestimmungen in Anwendung bringen lassen als diejenigen, welche bei den Enteignungen zu Eisenbahnanlagen in ihren Gebieten zurzeit Geltung haben. Für die Verhandlungen, die zur Übertragung des Eigentums oder zur Überlassung in die Benutzung an den Preussischen Staat in den bezeichneten Fällen erforderlich sind, namentlich auch für die Auflassung in den Grundbüchern, sind nur die Auslagen der Gerichte zu erstatten und tritt im übrigen Freiheit von Stempel und Gerichtsgebühren ein.

Artikel VI.

Die Feststellung der Tarife sowie die Feststellung und Abänderung der Fahrpläne erfolgt — unbeschadet der Zuständigkeit des Reichs — durch die Königlich Preussische Regierung unter tunlichster Berücksichtigung der Wünsche der Landesregierungen. In den Tarifen für die Bahn sollen keine höheren Einheitssätze in Anwendung kommen als für die anschliessenden Strecken des Königlich Preussischen Staatseisenbahngebiets.

Artikel VII.

Die Landeshoheit bleibt in Ansehung der in die einzelnen Staatsgebiete entfallenden Bahnstrecken den Landesregierungen vorbehalten. Auch sollen die an der Bahn zu errichtenden Hoheitszeichen nur die der Landesregierung sein.

Den Landesregierungen bleibt vorbehalten, zur Handhabung ihres Hoheitsrechts ständige Kommissare zu bestellen, welche die Beziehungen zur Königlich Preussischen Eisenbahnverwaltung in allen Fällen zu vertreten haben, die nicht zum direkten gerichtlichen und polizeilichen Einschreiten der Behörden geeignet sind. Für Akte der staatlichen Oberaufsicht und die Ausübung staatlicher Hoheitsrechte — soweit sie den Gegenstand dieses Vertrags berühren —, insbesondere für die landespolizeiliche Prüfung und Abnahme von Eisenbahnstrecken und sonstigen Eisenbahnanlagen, werden Sachsen-Meiningen und Schwarzburg-Rudolstadt Gebühren nicht erheben und Auslagen nicht in Rechnung stellen.

Die Handhabung der Bahnpolizei erfolgt durch die Königlich Preussischen Eisenbahnbehörden und Beamten; letztere sind auf Vorschlag der Königlich Preussischen Eisenbahnverwaltung von den zuständigen Behörden der Landesregierung in Pflicht zu nehmen. Die Handhabung der allgemeinen Sicherheitspolizei liegt den Organen der Landesregierung ob. Sie werden den Bahnpolizeibeamten auf deren Ansuchen bereitwillig Unterstützung leisten.

Artikel VIII.

Preussische Staatsangehörige, die in dem Herzoglich Sächsischen oder dem Fürstlich Schwarzburg-Rudolstädtischen Gebiete stationiert sind, erleiden dadurch keine Änderung ihrer Staatsangehörigkeit.

Die Beamten der Bahn sind rücksichtlich der Disziplin lediglich ihren Dienstvorgesetzten und den Aufsichtsorganen der Königlich Preussischen Staatsregierung, im übrigen aber den Gesetzen und Behörden des Staates, in dem sie ihren Wohnsitz haben, unterworfen.

Bei der Anstellung von Bahnwärtern, Weichenstellern und sonstigen Unterbeamten dieser Art innerhalb der einzelnen Staatsgebiete soll auf Angehörige der letzteren vorzugsweise Rücksicht genommen werden, falls geeignete Militäranwärter, unter denen die betreffenden Staatsangehörigen gleichfalls den Vorzug haben, zur Besetzung der bezeichneten Stellen nicht zu ermitteln sind.

Artikel IX.

Entschädigungsansprüche, die aus Anlass des Baues oder Betriebs der Bahn gegen die Eisenbahnverwaltung etwa geltend gemacht werden, sollen von den Landesgerichten und — insoweit nicht Reichsgesetze Platz greifen — auch nach den Landesgesetzen beurteilt werden.

Artikel X.

Die Herzoglich Sächsische und die Fürstlich Schwarzburg-Rudolstädtische Regierung verpflichten sich, von der Eisenbahnunternehmung und dem zu ihr gehörigen Grund und Boden keinerlei Staatsabgaben zu erheben, solange die Bahn sich im Eigentum oder Betriebe der Königlich Preussischen Regierung befindet.

Auf die Gemeindebesteuerung der Bahnstrecke, insbesondere auf die Berechnung des gemeindesteuerpflichtigen Reineinkommens und dessen Verteilung unter die beteiligten Gemeinden, finden vom 1. Januar des auf die Betriebseröffnung folgenden Jahres an die Bestimmungen des preussischen Kommunalabgabengesetzes vom 14. Juli 1893 (Preussische Gesetzsamml. S. 152) oder der künftighin etwa an dessen Stelle tretenden späteren Gesetze in der gleichen Weise Anwendung, als wenn die Bahn auf Königlich Preussischem Gebiete läge.

Bei der Besteuerung durch die Gemeinden soll ausgeschlossen sein, dass diese höhere Steuersätze oder Steuersätze nach einem höheren Massstab anwenden oder endlich andere Steuern auferlegen, als sie von den übrigen Gemeindeabgabepflichtigen gefordert werden.

Die Zahlung erfolgt alljährlich bis zum 1. Juli für das vorausgegangene Kalenderjahr.

Bei Feststellung des Verhältnisses, nach welchem die von der Bahn berührten ausserpreussischen Gemeinden gemäss den Bestimmungen des § 47 Abs. 2 beziehungsweise Abs. 1 unter b des preussischen Kommunalsteuergesetzes an dem gemeindesteuerpflichtigen Einkommen der für Rechnung des Preussischen Staates verwalteten Eisenbahnen beteiligt werden, sollen nur diejenigen Ausgaben an Gehältern und Löhnen zugrunde gelegt werden die aus dem Betriebe der Bahn erwachsen.

Eine Besteuerung der Bahn durch andere korporative Verbände werden die Herzoglich Sächsische und die Fürstlich Schwarzburg-Rudolstädtische Regierung nicht zulassen.

Sofern dieser Vereinbarung zuwider Steuern erhoben werden sollten, haben die genannten Regierungen die hierfür geleisteten Ausgaben der Königlich Preussischen Regierung zu erstatten.

Artikel XI.

Zur Einziehung von Stationen sowie zur Einstellung des Betriebs auf der ganzen Bahn oder einem Teile ist die Zustimmung der beteiligten Regierungen erforderlich.

Artikel XII.

Ein Recht auf den Erwerb der Bahn werden die Landesregierungen, solange sie sich im Eigentum oder Betriebe des Preussischen Staates befindet, nicht in Anspruch nehmen. Sollte dagegen später Eigentum und Betrieb an einen Privatunternehmer abgetreten werden, wozu die Genehmigung der beteiligten Regierungen erforderlich sein würde, so bleibt den Landesregierungen das Recht vorbehalten, die Bahn nach Massgabe des preussischen Eisenbahngesetzes vom 3. November 1838 anzukaufen.

Artikel XIII.

Für den Fall der Abtretung des preussischen Eisenbahnbesitzes an das Deutsche Reich soll es der Königlich Preussischen Regierung freistehen, auch die aus diesem Vertrag erworbenen Rechte und Pflichten auf das Reich mit zu übertragen.

Artikel XIV.

Gegenwärtiger Vertrag soll allerseits zur landesherrlichen Genehmigung vorgelegt werden; die Auswechselung der Ratifikationsurkunden soll in Berlin erfolgen.

Zur Beglaubigung dessen haben die Bevollmächtigten den Vertrag unterzeichnet und besiegelt.

So geschehen zu Berlin, den 7. April 1910.

(L. S.) *Vieregge.* (L. S.) *Schaller.* (L. S.) Frhr. *v. d. Recke.*
(L. S.) *Sprengell.* (L. S.) *Bock.*
(L. S.) Frhr. *v. Stengel.*

Annexe.

Adhésions, Signatures et Ratifications ultérieures, Prorogations, Modifications, Abrogations, Dénonciations, Addenda, Errata.*)

I.

Allemagne, Autriche-Hongrie, Belgique etc. Convention sanitaire internationale; signée à Paris, le 3 décembre 1903 (I, p. 78, 190).

Dénonciations:

a) Les Pays-Bas ont dénoncé la Convention, en ce qui concerne les Indes néerlandaises orientales. La Convention y a expiré le 29 février 1912. V. Journal officiel de la République française du 4 décembre 1912; Deutsches Reichsgesetzblatt 1912, p. 570.

b) La Grande-Bretagne a notifié la dénonciation de la Convention au nom du Gouvernement de l'Union sud-africaine. V. Journal officiel du 21 décembre 1912.

II.

Allemagne, Argentine etc. Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée; signé à Rome, le 26 mai 1906 (I, p. 395).

Adhésion:

L'Ethiopie. Notification en a été faite le 27 avril 1912. Les Gouvernements français, britannique et italien y ont constaté leur assentiment. V. Eidgenössische Gesetzsammlung 1912, p. 519.

III.

Allemagne, Autriche, Hongrie etc. Acte additionnel à la Convention du 5 mars 1902 relative au régime des sucres; signé à Bruxelles, le 28 août 1907 (I, p. 874).

Dénonciations:

La Grande-Bretagne (le 5 août 1912) et l'Italie ont dénoncé la Convention de 1902, prorogée en 1907. Ces dénonciations produiront leurs effets à partir du 1er septembre 1913. Publication en a été faite en août 1912. V. Moniteur belge du 15 août 1912; Revue générale de droit international public XIX, p. 718; Parliamentary Papers, Commercial No. 5 (1912).

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*) Les indications ne se rapportent qu'aux documents contenus dans les volumes de la troisième série.

IV.

Allemagne, Argentine etc. Convention concernant la création d'un Institut international permanent d'agriculture; signée à Rome, le 7 juin 1905 (II, p. 238; III, p. 139).

Adhésion:

La Grande-Bretagne pour l'Union de l'Afrique du Sud, le 28 octobre 1911. La Colonie a demandé à être classée dans le groupe IV. V. Treaty Series 1912, No. 14.

V.

Allemagne, Autriche, Hongrie etc. Convention relative à la procédure civile; signée à la Haye, le 17 juillet 1905 (II, p. 243).

Adhésion:

Le Danemark a notifié son intention de mettre en vigueur la Convention dans les Antilles danoises. En vertu de l'article 26 de la Convention ont répondu par une déclaration affirmative la Belgique (le 18 avril 1912), la France (le 24 avril 1912), l'Italie (le 30 avril 1912), la Norvège (le 8 mai 1912), le Portugal (le 30 avril 1912), la Suède (le 30 mai 1912), la Suisse (le 30 mai 1912), l'Allemagne (le 30 mai 1912). V. Lovtidenden 1912, p. 1230; Deutsches Reichsgesetzblatt 1912, p. 401.

VI.

Allemagne, Argentine, Autriche-Hongrie etc. Convention pour l'amélioration du sort des blessés et malades dans les armées en campagne; signée à Genève, le 6 juillet 1906 (II, p. 620).

Ratification ultérieure:

La Bulgarie, par une Note du 17/30 mai 1912. V. Eidgenössische Gesetzsammlung 1912, p. 524.

VII.

Argentine, Bulgarie, Chili etc. Arrangement concernant les livrets d'identité; signé à Rome, le 26 mai 1906 (II, p. 841).

Adhésion:

L'Uruguay, par une Note du 4 décembre 1912. V. Eidgenössische Gesetzsammlung 1912, p. 840.

VIII.

Belgique, Brésil, Espagne etc. Arrangement pour la création d'un Office international d'hygiène publique; signé à Rome, le 9 décembre 1907 (II, p. 913).

Adhésions:

a) La Norvège. Notification en a été faite le 15 novembre 1912. V. Eidgenössische Gesetzsammlung 1912, p. 698.
b) Le Chili. Notification en a été faite le 2 décembre 1912. V. ibid. p. 804.

IX.

Allemagne, Argentine, Autriche etc. Convention radiotélégraphique internationale; signée à Berlin, le 3 novembre 1906 (III, p. 147).

1) Ratifications ultérieures:

a) Les Etats-Unis d'Amérique ont ratifié, le 17 mai 1912, la Convention, l'Engagement additionnel, le Protocole final et le Règlement de service. V. Treaty Series (Washington), No. 568.

b) La Grèce a ratifié les mêmes conventions. Publication en a été faite le 18 juillet 1912. V. Deutsches Reichsgesetzblatt 1912, p. 447.

c) L'Uruguay a ratifié les mêmes conventions. Publication en a été faite le 18 juillet 1912. V. ibid.

d) L'Italie a ratifié, le 31 mai 1912, la Convention, le Protocole final et le Règlement de service. V. Gazzetta ufficiale 1912, p. 4471.

2) Adhésions:

a) La République de San Marino a adhéré, le 8 mai 1912, à la Convention, au Protocole final et au Règlement de service. V. Deutsches Reichsgesetzblatt 1912, p. 447; Treaty Series (London) 1912, No. 14.

b) Le Japon a adhéré, le 13 février 1912, aux mêmes engagements pour la Corée, la Formose, les possessions japonaises de l'île de Sakhaline et le territoire possédé à bail sur la péninsule de Kwantung. V. ibid.

c) L'Espagne a adhéré, le 8 mai 1912, à la Convention, à l'Engagement additionnel, au Protocole final et au Règlement de service, pour ses territoires du Golfe de Guinée. V. ibid.

d) Le Siam a adhéré, le 18 mai 1912, aux mêmes conventions. V. ibid.

e) L'Italie a adhéré à la Convention, au Protocole final et au Règlement de service, pour les Colonies de l'Erythrée et de la Somalie italienne. Publication en a été faite le 26 décembre 1912. V. Deutsches Reichsgesetzblatt 1913, p. 13.

X.

Allemagne, Etats-Unis d'Amérique, Argentine etc. Convention pour le règlement pacifique des conflits internationaux; signée à la Haye, le 18 octobre 1907 (III, p. 360).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XI.

Allemagne, Etats-Unis d'Amérique, Argentine etc. Convention relative à l'ouverture des hostilités; signée à la Haye, le 18 octobre 1907 (III, p. 437).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XII.

Allemagne, Etats-Unis d'Amérique, Argentine etc. Convention concernant les lois et coutumes de la guerre sur terre; signée à la Haye, le 18 octobre 1907 (III, p. 461).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XIII.

Allemagne, Etats-Unis d'Amérique, Argentine etc. Convention concernant les droits et les devoirs des Puissances et des personnes neutres en cas de guerre sur terre; signée à la Haye, le 18 octobre 1907 (III, p. 504).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XIV.

Allemagne, Argentine, Autriche-Hongrie etc. Convention relative au régime des navires de commerce ennemis au début des hostilités; signée à la Haye, le 18 octobre 1907 (III, p. 533).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XV.

Allemagne, Argentine, Autriche-Hongrie etc. Convention relative à la transformation des navires de commerce en bâtiments de guerre; signée à la Haye, le 18 octobre 1907 (III, p. 557).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XVI.

Allemagne, Etats-Unis d'Amérique, Argentine etc. Convention relative à la pose de mines sous-marines automatiques de contact; signée à la Haye, le 18 octobre 1907 (III, p. 580).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XVII.

Allemagne, Etats-Unis d'Amérique, Argentine etc. Convention concernant le bombardement par des forces navales en temps de guerre; signée à la Haye, le 18 octobre 1907 (III, p. 604).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XVIII.

Allemagne, Etats-Unis d'Amérique, Argentine etc. Convention pour l'adaptation à la guerre maritime des principes de la Convention de Genève; signée à la Haye, le 18 octobre 1907 (III, p. 630).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XIX.

Allemagne, Etats-Unis d'Amérique, Argentine etc. Convention relative à certaines restrictions à l'exercice du droit de capture dans la guerre maritime; signée à la Haye, le 18 octobre 1907 (III, p. 663).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XX.

Allemagne, Argentine, Autriche-Hongrie etc. Convention concernant les droits et les devoirs des Puissances neutres en cas de guerre maritime; signée à la Haye, le 18 octobre 1907 (III, p. 713).

Ratification ultérieure:

Le Luxembourg, le 5 septembre 1912. V. Deutsches Reichsgesetzblatt 1912, p. 530.

XXI.

Allemagne, Autriche, Hongrie etc. Convention internationale relative à la circulation des automobiles; signée à Paris, le 11 octobre 1909 (III, p. 834).

1) Ratifications ultérieures:

a) Le Monténégro, le 20 mai 1912. V. Journal officiel de la République française No. 167.
b) La Grèce, le 26 juillet 1912. V. ibid. No. 212.

2) Addendum:

Le Gouvernement de Sa Majesté britannique a notifié que l'Inde britannique a adopté comme marque distinctive les lettres **B J.** V. Deutsches Reichsgesetzblatt 1912, p. 499.

XXII.

Allemagne, Belgique, Danemark etc. Convention de Berne revisée pour la protection des œuvres littéraires et artistiques; signée à Berlin, le 13 novembre 1908 (IV, p. 590).

1) Ratifications ultérieures:

a) La Grande-Bretagne, le 14 juin 1912.

Ainsi qu'il résulte d'une déclaration spéciale, cette adhésion comporte une réserve faite sur la base de l'article 27 de la convention et visant l'article 18 de celle-ci, et elle ne s'étend qu'aux parties de l'empire spécifiées par la même déclaration, dont voici la traduction:

Déclaration.

a) En vertu de l'article 27 de la convention susmentionnée, il est déclaré qu'en ce qui concerne l'application des dispositions de celle-ci aux œuvres qui, au moment de son entrée en vigueur, ne sont pas encore tombées dans le domaine public dans leur pays d'origine, le gouvernement de Sa Majesté Britannique, au lieu d'adhérer à l'article 18 de ladite convention, entend rester lié par l'article 14 de la convention de Berne du 9 septembre 1886 et le n° 4 du protocole de clôture de cette dernière convention, amendé par l'acte additionnel de Paris du 4 mai 1896.

b) En vertu de l'article 26 de la convention revisée de 1908, le gouvernement de Sa Majesté Britannique accède à cette convention pour toutes les colonies britanniques et possessions étrangères à l'exception des suivantes, savoir: les Indes, le Dominion du Canada, la Fédération australienne, le Dominion de la Nouvelle-Zélande, Terre-neuve, l'Union sud-africaine, les îles de la Manche, Papoua et l'île de Norfolk.

c) En même temps, Sa Majesté Britannique accède à la convention pour l'île de Chypre et pour les pays britanniques de protectorat suivants, savoir: Bechouanaland, Afrique orientale, Gambie, île Gilbert et Ellice, Nigérie du nord, Nigérie du sud, territoires septentrionaux de la Côte-d'or, Nyasaland, Rhodésia du nord, Rhodésia du sud, Sierra-Leone Somaliland, îles Salomon, Souaziland, Ouganda et Weï-haï-waï.

d) Le gouvernement de Sa Majesté Britannique se réserve néanmoins le droit de dénoncer séparément la convention à toute époque en ce qui concerne les colonies britanniques, possessions étrangères ou protectorats (y compris l'île de Chypre) pour lesquels il adhère par la présente ou adhérera par la suite.

e) Enfin, il est déclaré que les dispositions de la convention deviendront exécutoires le 1er juillet 1912 dans le royaume-uni et dans les colonies, possessions étrangères et protectorats, y compris l'île de Chypre, auxquels s'applique la déclaration d'accesion ci-dessus.

Légation britannique à Berne, 14 juin 1912.

(Sig.) *R.-H. Clive.*

V. Recueil des lois fédérales 1912, p. 573.

b) Le Danemark, le 28 juin 1912, en faisant savoir que cette convention exercera ses effets pour le Danemark et les îles Féroë, à l'exclusion de l'Islande, du Groenland et des Antilles danoises, à partir du 1er juillet 1912, mais avec la réserve suivante faite sur la base de l'article 27 de ladite convention et portant sur son article 9, savoir:

En ce qui concerne la reproduction des articles de journaux et de recueils périodiques, au lieu d'adhérer à l'article 9 de ladite convention revisée le 13 novembre 1908, le gouvernement royal de Danemark entend rester lié par l'article 7 de la convention de Berne du 9 septembre 1886, tel que cet article a été modifié en vertu de l'article 1er, n° IV, de l'acte additionnel signé à Paris le 4 mai 1896. — V. ibid. p. 576.

2) Adhésions:

a) Les Pays-Bas, par une Note du 9 octobre 1912. Cette adhésion produira ses effets à partir du 1er novembre 1912; elle s'appliquera pour le moment à la partie européenne du royaume des Pays-Bas; les colonies feront l'objet d'une communication ultérieure.

Toutefois, l'accession comporte les réserves suivantes basées sur l'article 25, 2e alinéa, de la convention précitée:

1. En ce qui concerne le droit exclusif des auteurs de faire ou d'autoriser la traduction de leurs œuvres, le gouvernement des Pays-Bas, au lieu d'adhérer à l'article 8 de la convention susmentionnée, entend rester lié par les dispositions de l'article 5 de la convention de Berne du 9 septembre 1886, tel qu'il a été amendé par l'article 1er n° III, de l'acte additionnel signé à Paris le 4 mai 1896;

2. En ce qui concerne la reproduction des articles de journaux et de recueils périodiques, le gouvernement des Pays-Bas, au lieu

d'adhérer à l'article 9 de la convention revisée du 13 novembre 1908, entend rester lié par l'article 7 de la convention de Berne du 9 septembre 1886, tel qu'il a été amendé par l'article 1er, n⁰ IV, de l'acte additionnel signé à Paris le 4 mai 1896;

3. En ce qui concerne le droit de représenter publiquement des traductions d'œuvres dramatiques ou dramatico-musicales, le gouvernement des Pays-Bas, au lieu d'adhérer à l'article 11, alinéa 2, de la convention revisée du 13 novembre 1908, entend rester lié par l'article 9, alinéa 2, de la convention de Berne du 9 septembre 1886.

En outre, le gouvernement des Pays-Bas a fait savoir, qu'en ce qui concerne le délai principal de protection dont il est question dans l'article 30, alinéa 1er, de la convention revisée de 1908, la loi néerlandaise a établi la même durée de protection que celle prévue par l'article 7, alinéa 1er, de ladite convention.

Enfin, pour ce qui touche leur contribution aux dépenses du bureau international, les Pays-Bas ont demandé à être rangés dans la troisième classe.

V. Recueil des lois fédérales 1912, p. 679.

b) Les Pays-Bas, pour les Indes orientales néerlandaises, par une Note en date du 15 janvier 1913, sous les mêmes réserves; v. ci-dessus. Cette adhésion produira ses effets à partir du 1er avril 1913. V. Deutsches Reichsgesetzblatt 1913, p. 47; Eidgenössische Gesetzsammlung 1913, p. 8.

XXIII.

Danemark. Instruction pour les consuls généraux; du 21 octobre 1909 (V, 446).

Abrogation:

Le Gouvernement danois a déclaré, le 20 février 1912, que l'instruction expirerait le 1er mai 1912. V. Lovtidenden 1912, p. 117.

XXIV.

Grande-Bretagne, Monténégro. Convention de commerce et de navigation; signée à Cettigné, le $\frac{\text{11 janvier 1910}}{\text{29 décembre 1909}}$ (V, p. 633).

Adhésions:

La Grande-Bretagne a notifié, en vertu de l'article 2 de la Convention, l'accession de la Terre-Neuve (le 9 juin 1911) et d'un grand nombre d'autres Colonies, Possessions et Protectorats. V. Treaty Series 1912, No. 14.

XXV.

Espagne, France. Convention pour faciliter le transit sur la frontière des Pyrénées; signée à Bayonne, le 13 juin 1903 (V, p. 765).

Modification:

M. Raymond Poincaré, président du conseil, ministre des affaires étrangères, et M. Perez Gaballero, ambassadeur d'Espagne à Paris, ont échangé, le 27 avril 1912, des notes constatant l'entente intervenue entre les deux Gouvernements pour apporter à l'article 2 de la convention une modification portant que la durée de la validité de l'acquit-à-caution pour les entrepreneurs de transport et les loueurs de voitures sera de quatre-vingt-dix jours au lieu de quarante. — V. Journal officiel de la République française 1912, p. 4210.

XXVI.

Allemagne, Autriche-Hongrie, Belgique etc. Protocole en vue de prolonger la Convention relative au régime des sucres du 5 mars 1902; signé à Bruxelles, le 17 mars 1912 (VI, p. 7).

Ratifications ultérieures:

Le Pérou, la Suède et la Suisse ont ratifié le Protocole avant le 1er septembre 1912 (comp. l'article 3 du Protocole). Les instruments de ratifications ont été déposés à Bruxelles, par la Suisse le 29 juillet 1912 et par la Suède le 2 août 1912. V. Deutsches Reichsgesetzblatt 1912, p. 487.

XXVII.

Danemark, Bulgarie. Arrangement commercial; réalisé par un Echange de notes du $\frac{\text{10 décembre}}{\text{27 novembre}}$ 1909 (VI, p. 541).

Prorogation:

Ainsi qu'il résulte d'un Echange de notes en date du 10 janvier 1913 l'Arrangement ne cessera ses effets que le 31 décembre 1913. V. Lovtidenden 1913, p. 6.

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Table analytique.

Buchdruckerei Julius Abel, Greifswald.

